

TELEVISION, REGULATION AND CIVIL SOCIETY IN ASIA

edited by Philip Kitley





UNIVERSITY
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Television, Regulation and Civil Society in Asia

This highly topical book exposes the tensions between the politics of broadcasting regulation and practices of civil society in the Asian region, which is struggling with its incorporation into a new, globalised, electronic information and entertainment world. The book critically compares western principles of broadcasting, civil society and cultural regulation with alternative 'Asian' practices of regulation and organisation.

Over the past forty years Asian states have used television as a normative cultural force in nation building, but more recently many states have deregulated their television sectors and introduced national, commercial and international satellite services. As Asian states wrestle with a perceived loss of cultural control and identity through deregulation, this book considers their viewpoints and the question of whether the television public sphere offers space for the representation of popular sovereignty, and transversal concerns about human rights, press freedom, gender, environmental and world trade issues.

Philip Kitley is Associate Professor in Asian Studies at the University of Southern Queensland. He has published widely on media and culture in Indonesia, including *Television, Nation and Culture in Indonesia* (2000), the first major study of television in Indonesia, which has also been translated and published in Indonesian.



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Foreword

The term 'civil society' encompasses a number of factors regularly entered and taken off public and mass media agendas. Some salient ones discussed in this book are participatory communication and political processes, people's rights, state/society/media relationships, and ownership and other regulatory trends.

Many of the issues that contributors to *Television, Regulation and Civil Society in Asia* write about have appeared, disappeared and reappeared as parts of national media or broadcasting commissions and policies in Asia or campaigns of NGOs such as UNESCO and the Non-Aligned Countries Movement. For example, in the 1960s and 1970s, much ink and spittle were expended discussing ways to use mass communication for the betterment of the southern world, particularly Asia. Cultural-media imperialism, one-way news and information flows, elite-oriented media and authoritarian rule were condemned; salutary concepts such as participatory communication, horizontal and free and balanced flows of information, traditional and alternative forms of communication, and people's right to be informed free of government restrictions came to the fore.

But, this euphoric period was soon eclipsed by one that pushed high technology as the panacea for the world's ailments (again), the frightening-rapid takeover of mass media by a handful of money-hungry, public discourse-bet damned moguls, and commercialisation and commodification of news and information the like of which the world has never before witnessed. Global village, globalisation, glocalisation, political correctness, privatisation, liberalisation, cyber this and that, these became the buzzwords. The many new television stations and cable systems that emerged because of privatisation usually served as shopping malls, rather than public debate fora, and the tightening of control of media through ownership by fewer conglomerates often meant less public accountability, fewer chances for people to participate in public discourse, and omission of vital news/information to protect parent corporations' vested interests. Self-censorship, engineering of social responsibility, political correctness and envelopmental journalism (bribery) stood slightly taller as means of control than more attention-grabbing

methods such as murder, arrest, or imprisonment of journalists and the closing of media.

Then came the events of 11 September 2001, after which, public fear (probably the most effective means of control) allowed governments of the West, and some of Asia, to deny citizens their rights, using as an excuse, the bogeyman of terrorism. Civil society worldwide has not been in a more precarious state since World War II and its aftermath, the Cold War.

But, not all is bleak. Contributors to this comprehensive and important book fully discuss the implications of the foregoing issues, but they also point to examples of alternative media such as a web-based daily in Malaysia and various uses of the Internet, the overthrow of Philippine President Joseph Estrada, claimed as an act of television and civil society, or the creation of nationally produced television content.

The editor of *Television, Regulation and Civil Society in Asia* has provided us with a milestone in the study of Asian mass communication, blending many aspects of the elusive term civil society with the practice of television and its regulation in nine countries of Asia and Australia. Let us hope that the few optimistic situations the contributors discuss will shortly expand and dominate the world of Asian television.

John A. Lent

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Philip Kitley
Toowoomba, December 2001

Part I

Overview

Introduction

First principles – television, regulation and transversal civil society in Asia

Philip Kitley

Television in Asia

Television is a communications technology that was developed in the West in the early years of the twentieth century. However, the events of the Second World War inhibited its technical and commercial development in America and the United Kingdom, the two countries where it showed its earliest promise. In the United Kingdom, the London Television Service began operations in 1936. In the United States, the earliest television broadcast began a few years later in 1939. But the onset of war suspended any further development in both countries (Smith 1995: 31). Immediately after the war, services were rapidly developed, covering important national political and sporting events. If the Second World War put the development of television on hold in Europe, it was the most significant factor that precipitated the development and character of television broadcasting in Asia. In our view, the changes in geopolitical relations which the end of the war initiated, contributed more significantly to the pattern of development of television in Asia than the promotion of television as part of Asian industrial and economic development as Smith suggests (1995: 311).

The fallout from Japan's invasion and occupation of Northeast and Southeast Asian nations from 1931 to 1945 was unexpected and profound. By 1954 most of the former colonies of Western powers in Southeast Asia were newly independent nations. Radio broadcasting and, relatively soon after, television were established in two waves. In those nations most closely associated with the economic and anti-communist policies of the United States in the Asia Pacific region (the Philippines, Thailand, South Korea and Japan), television was established in the early 1950s and reflected the commercial character of America's dispersed, diversified system (Table A.I). In the former Western colonies in Southeast Asia, television was developed as a central element in the political and cultural processes of nation-building. In Malaysia, Singapore and Indonesia, nation-building was the prime motivation for the creation of state-owned, public television services just as it was in the centrally planned People's Republic of China. In Hong Kong and Australia, both closely associated with Britain, television was driven by

market forces more than nation-building but showed significant differences, both from each other and from the British parent model. Australian television, from its earliest days, was a mixed public and commercial service and retained a strong regional character into the 1990s (O'Regan 1993). In Hong Kong, commercial imperatives drove the new service and reflected what we might describe as a more American commercial orientation.

Despite their different beginnings, the television services of all the countries discussed here have come to resemble each other more closely in recent times. This is an outcome of new forms of competition – competition that is both cross-platform and cross-border. National systems in the region are caught up in global trends such as market deregulation and liberalisation, service diversification, rollout of broadband cable and satellite delivery, and the trend towards internationalisation of television formats and programming (see Thomas, chapter 11, and Iwabuchi 1996). The brief Profiles which follow this Introduction provide succinct overviews of the development of television in the ten Asian countries discussed in Part II.

In this book, the loose, totalising but convenient term 'Asia' is understood as comprising selected nations within the Asia Pacific region. Our selection of national television systems for analysis was influenced by a number of overlapping and not always compatible pressures. First, we wanted to develop a comprehensive, comparative overview of television in the region at a time when, as we see it, systems are on the cusp of major change. Our objective was to record the tensions that the new nations of Asia were facing in adapting television systems and regulatory regimes established for a varied, but always distinctly 'national' mix of political, commercial and cultural reasons, to the growing demands of new technologies, new publics, and emerging transnational and global media trends. Second, we wanted to make that analysis as informative as it could be, and that decision limited the book to a discussion of no more than ten individual country studies. Third, the selection represents the range of interests and specialist knowledge of the contributing authors. The authors of the country studies included here were invited to contribute on the basis of their previous research and publications on television in Asia. Our contributors are a mixed group of Asian and Australian researchers who have specialised in the field of media research in the Asia Pacific. They bring to this book intensive fieldwork, first-hand experience, language skills and scholarly research on their chosen national studies.

Television regulation

Our decision to focus this collection on the national rather than the transnational 'space of flows' may appear to defy the logic of what is often referred to as 'late' or 'informational' capitalism in which economic globalisation and 'space-shrinking technologies' have become dominant explanatory paradigms (Dicken 1998). According to much of the literature on globalisation the

nation-state is in danger of becoming increasingly displaced in the context of global flows of finance, populations and information. In this account of the demise of the nation-state, 'national culture' is being overpowered by transnational or global culture, setting up an image of impending cultural homogenisation that is seemingly as inevitable as the levelling of playing fields, the overhauling of protectionist machinery, and the establishment of transparent democratic institutions. The question that must be asked, however, is to what extent is the national actually declining? In the broad scheme of social transformation in the region, we argue that television remains a domestic medium regulated largely by 'national' considerations.

A number of factors reinforce a national, rather than a transnational or even global, perspective in interrogating the intersection of television, regulation and civil society in Asia. First, the television systems discussed here are all relatively recent developments, as are the capitalist credentials of countries such as Indonesia and the People's Republic of China, the latter ostensibly a socialist state coming to terms with supply and demand economics. Even in Thailand and the Philippines, for example, countries where television was established earlier than in most of the other nations discussed, a national television system was only firmly established in the last twenty or thirty years. Major change, which has come mainly through privatisation of state systems of broadcasting is recent, in most cases a matter of only ten years or so. And if these national television systems are relatively recent, formal regulation in terms of economic or sector regulation is even more so, and represents the historical, economic and political-cultural circumstances of the selected countries. Despite regulatory pressures associated with multilateral mechanisms such as the GATS (General Agreement on Trade in Services), which seeks to include and deal with film and television services in the same way as it treats other services such as telecommunications, transport, banking, tourism and Internet-based services (Sauve and Stern 2000), there has been no development of a regional pattern or model of television regulation in Asia such as we find in the trade, telecommunication, finance and investment spheres, or as is emerging in the European mediascape (McQuail and Siune 1998). Santos, for example, draws attention to the way the television sector, alone of all major sectors in the Philippines, has been walled off from international investment (chapter 5), and Kitley describes similar arrangements in Indonesia (chapter 3). Regulations limiting overseas ownership are widespread in the region and reflect principles of cultural and economic sovereignty that are only now under strain. Television systems in Asian countries are highly differentiated and reflect the specificities of state-society relations and recent national histories more than any international regimen of media regulation. Tables A.II and A.III at the end of this chapter show the lack of uniformity across the region in terms of the establishment of regulatory authorities and the strong profile state bureaucracies hold in the regulation and control of television.

The central role of state authorities in television broadcasting is the second reason for focusing our analysis at the national level. As is clear in our discussion of civil society, governments still exert great influence and national systems have not come under pressure to break up and become more regionally diversified, except in China and the Philippines where over 150 smaller stations broadcast to regional audiences. Barriers to entry in broadcast television have not allowed 'electronic tribes' to weaken the hold of national broadcasters on national audiences.

Third, national cultural and political motivations for establishing television broadcasting in Asian countries are still very obvious and lend a specific and distinctive identity to television style, content and institutions in the countries selected for analysis. In most instances the principal rationale for developing national television systems has been that of access to and governance of national populations. As Monroe Price argues, 'the necessity for generating and maintaining a narrative of community is a universal occupation' (1995: 234). It is politically expedient in the context of regional rivalry to have effective channels of communication through which propaganda can be disseminated. The fact that this requires massive capital investment is testimony to the importance of television. While commercial players have been allowed to invest in communication industries this does not entail the state abdicating its role in regulation, but rather opting for different and less intrusive forms of regulation.

Fourth, transnational influences, in terms of direct flows of programming into Asian countries are still limited, at this stage, to cable and satellite delivered services. These serve only a minor segment of national households (Table A.I). Most television households in the countries discussed watch free-to-air, terrestrial services which are locally owned and which broadcast in local languages. Even so, the authors of the country studies all acknowledge the presence and influential role foreign-sourced programming and formats play in the televisionscape of Asia. In chapter 11, Amos Thomas looks in detail at the distribution and access Asian national audiences have to international satellite television.

Regulatory space

In thinking about the regulation of television and civil society in Asia the analytical concept of 'regulatory space' has proved useful (Hancher and Moran 1998). Although Hancher and Moran developed the concept in theorising regulatory practices in advanced capitalist countries, the central idea of a blurred distinction between public (state) and private spheres across different national contexts, and contestation over regulatory practices and principles on the part of powerful players has proved to be powerful in developing a comparative understanding of media regulation in Asia. Regulatory space sets notions of 'regulatory capture' (Kolko 1963) aside, arguing that the idea of capture is grounded in essentialist assumptions

about the separation of the state and private sectors that is not borne out in investigations of actual practice (Hancher and Moran 1998: 150). Approaching regulation in this way is useful as it ties in with our interest and examination of civil society in Asia. In modern Western political philosophy civil society is premised on a clear distinction between the government and non-government spheres. To extend this distinction to political culture in many Asian states is to misunderstand grossly the dynamics of what Linda Weiss and John Hobson call 'governed interdependence' (1995: 12).

Regulation of economic or media affairs is founded on the agreement that the state has a legitimate right to exercise control in the public interest. Baldwin and Cave (1999) have identified twelve different rationales on which government authorities rely in justifying their intervention in public affairs. These rationales are premised on economic regulation and need some modification in their application to those television systems which are state owned and managed. But the fundamental premise, that regulation is justified because of fears that an uncontrolled media environment will, for some reason, fail to produce behaviour or results in accordance with the public interest takes us to the heart of the debate about media regulation and its national specificities in Asia. The 'agent-of-control' state model of regulation assumes firstly that a unitary public interest can be clearly defined, and that the state will act in a disinterested way and will not sacrifice the public interest for private advantage – either its own, or that of powerful political allies.

In many of the strong states (Migdal 1988) discussed here, however, it is obvious that 'the public interest' is not an empirical category at all but represents the cultural and political aspirations of state authorities. The public interest is defined by the state as a totalising construct which reflects state priorities and makes no room for alternative expressions of the public interest. In China, Indonesia, Malaysia, Singapore and Korea, where television was central to nation-building processes, the public interest was represented in terms of mapping new political formations over great social diversity. The public interest was projected forward in time as an outcome of nation-building. Understood as synonymous with the *national* interest, the public interest could be understood as an emergent category. This convenient perspective allowed state authorities to ignore the unruliness of multi-ethnic, pluralist societies and establish state-dominated, centrally managed television systems.

The role strong states in Asia have played in representing the public interest on their own terms has contributed to the relatively weak development of public broadcasting in Asia, the relative lack of regulatory bodies independent of government, and the late entry of commercial television in many countries (Table A.I). Even now, in times of deregulation, privatisation, and the entry of transnational providers, developments in regulation are often more concerned with demarcation disputes over regulation between state authorities and large media corporations, and the public

interest, however defined, is largely overlooked. These interdependent relations between state and private sector players are inflected by organisational arrangements which subtly reinforce hegemonic assumptions about the purposes of television. In Japan, for example, Hirano describes a practice of seconding executives from the national broadcaster NHK and other commercial networks to the Ministry of Posts and Telecommunications (MPT) where they develop insider knowledge of regulatory policy and eventually return to their own organisations. This exchange of broadcasting personnel with the regulatory authority, and the flow of MPT ‘ambassadors from heaven’ on retirement into the industry, creates a shared framework of assumptions, norms, values and practices which smooths the way in negotiations over key regulatory policies. In the Philippines, Santos describes a similar practice of sharing executive talent across the political–industry divide in a way that is mutually beneficial.

No similar culture of power-sharing with civil society representatives has been described for any of the countries analysed here. Significantly, it is only in those countries where authoritarian political regimes have been publicly and sometimes violently contested as part of more *general* social unrest (Korea, Thailand, Indonesia) that regulatory bodies and systems of nomination to those organisations make formal acknowledgement of the public and civil society (Table A.II). In the Philippines, even ‘people power’ activism failed to deliver regulatory change in the media sector which Santos attributes to the superglue of government–commercial sector arrangements in that country. In Australia, while the license renewal process was designed to ‘regularly and directly’ confront broadcasters with civil society, as Flew describes, it became increasingly legalistic and exclusive and failed to achieve its public interest goals (chapter 6).

Crowded regulatory space

Two themes emerge from a comparative review of regulatory practices in Asia. First, it is obvious that the regulatory space of television is very crowded in all (except China) of the countries studied. State authorities deal with influential and economically powerful media enterprises over matters such as the regulation of cross-ownership, monopoly powers, direct foreign investment and the distribution of services across the national territory. It is rare for these transactions to be as formal and transparent as they are becoming in Malaysia with the introduction of ‘industry forums’ as part of the Communications and Multimedia Act 1998 (chapter 2). More often, the process of regulating public and private interests is a more shadowy, behind-the-scenes process of trade-offs between state authorities and powerful media interests as discussed by Santos, Hirano and Lewis, for example.

Hirano describes the process of license renewal in Japan as reflecting not so much formal regulatory outcomes but a ‘collusive relationship between the state and commercial broadcasters which occurs beyond the boundaries

of the regulatory system' (chapter 9). In the Philippines, private sector corporations influence broadcast regulation much more directly. Santos shows that the Association of Philippines Broadcasters promotes self-regulation and industry standards for advertising, and also makes formal recommendations to government on technical standards where it exercises a major influence. In this way, the commercial sector shapes corporations' capacity to operate in the market (chapter 5). In Thailand, Glen Lewis describes sustained wrangling between media proprietors supported by prominent political figures and a coalition of media reformers. Lewis notes that the introduction of the progressive National Broadcasting and Telecommunications Commission was disabled by concessions forced by media interests which insisted that existing contracts could not be affected and that cross-media issues remained off the reform agenda (chapter 1). Ki-Sung Kwak also draws attention to close collusion between state authorities and broadcasters in Korea, describing informal mechanisms of control exercised through administrative consultation and exchange of senior personnel (chapter 10). In the case of Australia, Flew argues that in the 1970s the Broadcasting Tribunal was reluctant to bring down judgements against commercial broadcasters, and that in the 1990s the new Broadcasting Services Act 1992 strengthened the economic position of established players and weakened the capacity of civil society to have any influence over broadcasters.

It would be wrong, however, to characterise the relations between state authorities and the corporate sector as untroubled. There is always an inherent tension in clientelistic relations between state authorities and the corporate sector and a measure of that is the undercover nature of a lot of what is done. There is a residual understanding that in making concessions to the corporate sector the state is trading-off public goods. For that reason concessions are usually limited and non-transparent. The patron's restrictions on the client's access are justified in the name of protecting the public interest. And while patrons' power to limit access and concessions is significant, patrons are also vulnerable to discovery and challenge from civil society associations committed to principles of social justice, and from other clients who enter the arena as competitors. That is to say, clientelistic relations are tense, not cosy, and are marked by a range of nationally idiosyncratic practices which are ways of managing relations that are understood by all parties as against the public interest and the rule of law (Roniger 1998).

Disengagement from regulation

The second theme that emerges from our work is that regulation is contested and that we can identify an array of nationally specific modes of disengagement from formal regulation suggesting that in most of the countries studied, the rule of law, particularly as it applies to the public-private

distinction is relatively weakly developed. There is an extensive literature on relations between the state and the corporate sector in Asia which there is not scope to discuss here (Hewison, Robison and Rodan 1993; Gomez and Jomo K.S. 1999; Drysdale 2000; Kojima 1997). Our research suggests, however, that the television sector is another site where 'blurred relations' between public and private sectors is clearly evidenced.

In chapter 6, Terry Flew notes that the Australian Productivity Commission reported very critically on an anti-competitive and restrictive 'quid pro quo' culture that characterised policy relations between the industry and regulators. In chapter 7 Michael Keane relates the regulatory elbow room that Chinese provincial officials enjoy to their distance from the centre. Keane argues that formal regulation is subject to processes of revision and interpretation which provides space for officials and creative personnel to play 'edge ball'; to finesse their interpretation of regulations which come down from the legislative centre in ways that allow scope to achieve their local objectives. For the Philippines, Santos describes an institutionalised ebb and flow of politically powerful personnel across the putative public-private divide as a way of maximising political parties' and candidates' exposure to the public in exchange for 'understanding' over media practices and lax observance of regulation. In Thailand, James Scott's phrase 'foot dragging' captures media owners' resistance to tighter regulatory control. Glen Lewis shows in chapter 1 that it was years before the Broadcasting Law was passed and national regulatory authorities established. Foot dragging is a primitive but effective way of appearing to do something about regulation all the while holding off the intrusion of public control into the activities of the private economic sphere.

In Indonesia, Philip Kitley argues that the close family relations between commercial television owners and the executive led to years of relatively unregulated development. In Indonesia, the trade-off was articulated in a 'nod nod, wink wink' understanding that television operators would give general support to the policies of the New Order regime in exchange for privileged access to television markets and executive indifference to operators' failure to pay compulsory fees to the Department of Information. The special relationship between former President Soeharto and commercial television operators even prompted the President to intervene personally and directly in the legislative process and demand that certain provisions in the draft Broadcasting Bill 1997 be 'reviewed' (Kitley 1999). Ki-Sung Kwak makes a similar point in describing the way commercial channels in Korea in the 1970s were permitted to screen almost whatever entertainment programming they liked in return for promoting the state's economic and political interests. In the Philippines, as Santos shows, bribery, corruption and cronyism are well established, but 'hidden, informal, semi-legal and even illegal' ways of avoiding regulatory restrictions which have profound effects on content and editorial policy of television in the Philippines. It would be naive, however, to think that these practices are restricted to the Philippines.

'Envelope journalism' is well known in Indonesia, Thailand and South Korea. In Australia corruption is also part of commercial broadcasting but works in different ways. In 2000, Australian audiences were outraged by the huge gratuities paid to leading commercial radio broadcasters for favourable advertorial comment (Williams and Rich 2000: 12–13).

The subject of regulation

While the regulation of television can be understood as a technical and legal discourse, it can also be understood as a discursive form of domination of cultural and thinking practices. We see regulation very much in terms of its cultural dynamic as a sphere of governance and cultural normalisation. In many of the countries selected for discussion, the nation-building goals of national broadcasting systems are absolutely fundamental to an understanding of regulatory policy. Historically what Collins (2000) calls 'positive programming' was overshadowed by 'negative regulation'. The social outcomes of regulation were primarily understood as being about protecting people (and national cultures) from negative influences. Regulation of language, advertising content, levels of national programming, and isolation from foreign programming which did not support domestic regimes of value were the foundation of the emphatically domestic character of Asian television. In Singapore, for example, as Birch and Phillips show, individual households are not permitted to own satellite dishes (chapter 4). This issue intersects with our third category – civil society. National cultural goals positioned the national audience as an undifferentiated mass audience which was targeted as part of a long-term improvement program. Certainly this was the stated goal of socialism in China (Keane 2000). Under these circumstances, any role for the public was hardly considered. Television was designed to do something *to* audiences, it was not something *for* audiences. The discussion of regulation as normalisation is developed in detail in chapter 2 on Malaysia and in chapter 4 on Singapore where Birch and Phillips argue that the Singapore population has so internalised dominant party policies circulated in ever more sophisticated and subtle ways so as to make any departure or alternative political vision seem illegitimate or at least controversial.

Civil society in Asia

In this book our focus is on television and the question of whether state regulation of this most popular and influential of all mass media has permitted television to mediate public interest and debate over preferred forms of social and cultural life. Surprisingly, even though the literature on civil society has grown enormously over the last ten years or so, the relationship between civil society and the public sphere has not been widely discussed (Keane 1998: 157). Even in Habermas's celebrated discussion of

the bourgeois public sphere, and in related scholarship, the focus is on the public sphere and not, as we see it, the fundamental connection between open communications systems and civil society. In our research, we link television, public spheres and civil society closely together and ask whether national systems of regulation in Asia enable television to play a role in the maintenance of civil society. This begs the question, of course, about the existence, nature and support for civil society in Asian countries whose histories and political and social philosophies are different from Western nations, where the discourse of civil society originated and is enjoying a contemporary revival. Our contributors wrestle with these questions and describe the particular character and provenance of civil society in their field areas, and I return to this issue in discussing the outcomes of our research below.

We were also interested in the question of how existing territorially based systems of regulation are affected by globalised electronic communications which circulate images and discourses of alternative social possibilities, and increasingly, although certainly not uniformly, impact in complex ways on free-to-air, satellite and cable television services in Asia. As John Keane puts it, the global mediascape today is 'a multiplicity of networked spaces of communication which render obsolete the conventional idea of a unified public sphere and its corresponding vision of a republic of citizens striving to live up to some "public good"' (1998: 158). Our research suggests that this is probably overstated for many Asian countries where strong states and institutionalised relationships between bureaucratic authorities and domestic corporations maintain barriers to the mediation of matters of public interest championed by civil society. In Singapore and Malaysia, however, the logic of global capitalism and the global communication industry's interest in 'hubs' (Valida 1999; Sassen 1998, 2000) has resulted in communications regulation and infrastructure that is skewed towards taking advantage of the mediascape John Keane describes. As a result, there is a mismatch in these two countries between domestic practices and regulations which are restrictive and hegemonic, and a more open approach in the export face of Singapore and Malaysia's globally oriented information and communication technologies industries (chapters 2 and 4).

It is certainly true, however, that the transnational flow of images and reports of events, such as the fall of the Berlin wall, the student demonstrations in Tiananmen Square in May–June 1989, the Anwar trial in Malaysia, the execution of Flor Contemplacion in Singapore and of 'people power' activism in the Philippines in 1986 and 2001 have had a profound effect on political publics in Asia. These events have stimulated an intense and growing interest in civil society which, while not Asian, is recognised as a discourse which speaks to a wide range of public interest issues which resonate regionally, such as political reform, freedom of information, environmental values, and human, minority and women's rights.

Ideas of civil society

Civil society has an ancient and important place in Western political philosophy. The idea has been worked and reworked ever since Aristotle first outlined his vision of an idealised political community which will serve as the starting point of our analysis, but does not represent the ‘essence’ of civil society which we understand as a highly differentiated and dynamic category. Aristotle understood civil society – ‘political community’, in his terminology – as a ‘public ethical–political community of free and equal citizens under a legally defined system of rule’ (Cohen and Arato 1994: 84). Political life consisted of public speech and discussion and, as Schecter suggests, ‘it is here within the Western tradition of politics that the antecedents of the idea of a critical public and civil society are found’ (Schecter 2000: 26–7).

Here we find three themes which are central to this book: the idea, firstly, that *social life matters*, that it engages the attention and concern of members of the community. Secondly, the *mediation of social concerns* in modes of public discourse which we understand today involves universal access, transparency and accountability in public affairs through a, or indeed, many, public spheres. Thirdly, the idea that *public life was rule governed*, and that the rules reflected an ethos based on a common, preferred way of living and public processes of debate and decision-making, and not the narrow interests of a privileged political elite. In this book, our interest is in the regulation of television and how processes of regulation contribute to the three themes I have just mentioned.

With the benefit of later scholarship, we also recognise gaps and silences in the Aristotelian vision. It was a gendered political community, where women had no political rights and were relegated to the household sphere. People who did not own property were also excluded from public life. The gendered, exclusive character of the ancient Greek civil society is not compatible with the notion of civil society that has been developed in the context of recent political struggles, which above all stress pluralism and equal participation by men and women in social affairs.

The unity of Aristotle’s idea of civil society differs markedly from the post-Hegelian division of the social formation into at least two fundamental categories, state and society, which for many contemporary scholars is definitive in understanding civil society. Consider, for example, Cohen and Arato’s ‘working definition’ of civil society as ‘a sphere of social interaction *between economy and state*, composed above all of the intimate sphere (especially the family), the sphere of associations (especially voluntary associations), social movements, and forms of public communication’ (1994: ix; my italics). This definition is unusual in its recognition of the role of public communication, the incorporation of the intimate or ‘private sphere’ of the family in civil society, and the exclusion of the economy from civil society. Lucien Pye’s (1999: 763) simpler formulation that ‘civil society

consists of the diverse autonomous interest groups that can exert pressure on the state' also distinguishes between the state and social sectors, but asserts an oppositional aspect of civil society that is at odds with more recent formulations that represent state–civil society relations as interdependent and mutually contested. Consider, for example, John Keane's description of civil society as an ideal–typical category 'that both describes and envisages a complex and dynamic ensemble of legally protected non-governmental institutions that tend to be non-violent, self-organising, self-reflexive, and permanently in tension with each other and with the state institutions that "frame", constrict and enable their activities' (1998: 6). Paul Lee reflects on this issue in his discussion where he describes what he calls 'cultural civil society' in Hong Kong and stresses that civil society in Hong Kong does not position itself in opposition to the state (chapter 8).

John Keane's definition recognises the practical and theoretical difficulty of distinguishing sharply between the state, corporate and private sectors in modern, complex economies. In such economies, each sector is typically interpenetrated and to some extent dependent on other sectors. The private family sphere, for example, is linked closely to the state through health, education and welfare programmes which in many instances are managed by the corporate sector. Tax incentives and investment programmes supported by state advice and agencies bind the state and corporate sectors closely together.

The role of the non-state sector in the transition of authoritarian, non-democratic regimes to new democratic formations received an enormous boost from the events in Central and Eastern Europe in the late 1980s, and it is the oppositional, politicised, activist character of civil society in Poland, East Germany and Czechoslovakia which has been largely responsible for the revival of what was, up until then, a political idea that had fallen into disuse. The coincidence of the break-up of authoritarian states in Europe with the globalisation of electronic communications has been critical in the mediation of civil society discourse and the adaptation and enthusiastic endorsement of the role and values of civil society in international aid, development and governance programmes worldwide. Today global agencies such as the United Nations (UN), the World Trade Organisation (WTO), the World Bank and the International Monetary Fund (IMF) all champion civil society. Protests in Seattle in 1999 directed at the World Trade Organisation, in Melbourne in 2000 directed at the World Economic Forum and, more recently, in Genoa in 2001 directed at the G8 summit suggest, however, that many civil society associations take the view that civil society principles have been strategically co-opted by multilateral agencies in pushing their globalisation agendas (Scholte 1998).

In the Asian region, models of civil society are not new. In Japan and China, Marxian ideas of civil society were well known in the 1930s. Cho Hein (1997) argues that a Confucian civil society existed in Korea during the Chosun dynasty (1392–1910). In Thailand, Indonesia, Malaysia, Korea and

the Philippines, modern non-government organisations have been active for over thirty years and have represented a wide range of public issues. Hann and Dunn have also drawn attention to models of civil society beyond essentialist foundation assumptions of liberal individualism and argue that anthropological research provides evidence of 'specific practices and normative codes through which people are made accountable and responsible to other members of society. This is the broader meaning of civil society and it can be fruitfully explored in *all* types of human society' (1996: 20, italics in original). Rodan has also drawn attention to problems in holding onto a rigid state versus society dichotomy, particularly in 'one-party states or "dominant party systems" which characterise much of East and Southeast Asia' (1996: 28). Similarly, the authors of our country chapters give attention to indigenous practices and forms of civil society but also acknowledge contemporary global support for civil society and link the current resurgence of interest in civil society in their national studies to imported discourses and well-publicised associational and oppositional activities which were so much a part of political transitions in the 1990s.

We suggest, therefore, that civil society can be understood as a deterritorialised or *transversal discourse* that unites intellectuals, associations, politicians, bureaucrats and, at times, state authorities in a generalised concern with the values, forms and practices of civil society. The idea of a transversal phenomenon can be traced to Foucault, who argued that there are some struggles which move across national borders and are not confined to a particular political or economic form of government (Foucault 1982: 780). The term has been elaborated in International Relations where it has opened up ways of theorising global politics differently from the statist paradigm which speaks in terms of international, multinational or transnational relations (Ashley 1989; Bleiker 2000; Campbell 1996). To understand global politics in terms of transversal phenomena is to draw attention to flows of information, technologies, people, diseases, goods, ideas, symbols and capital which rupture the traditional constitutive narratives of (International Relations) discourses that are anchored to national or state-centric representations of the world (Soguk and Whitehall 1999). Global media vectors project struggles over issues such as civil society, the global economic order, terrorism and the environment across national borders into what Miriam Hansen has called the 'transnational public sphere' almost instantaneously (1993). And while we recognise that the media typically compresses information into eight-second sound bites and simplistic iconic imagery and does not challenge prevailing political systems as such, when the media leaves one field of struggle for another diversion it leaves in its wake 'the slow and constant transformation of values' (Bleiker 2000: 206).

In this book we focus on what is often implicit, or even overlooked, in discussions of civil society, and that is the transversality of civil society discourse which we consider to be vitally important in understanding processes of social change and their mediation in contemporary life. As

Ashley says, transversal struggles are struggles over interpretation, and that is precisely what is at stake in the discussion of the regulation of television and civil society in Asia (1989: 270). Interpretation in this instance is concerned with debate over ideas of the public interest and whether the public interest, and regulation of the public interest, is necessarily tied to existing state formations or whether it can be managed and understood as a more embracive construct that unites associations *across* political boundaries. Understood as a transversal discourse, civil society is a normative discourse that questions power relations which authorise or legitimate state authorities to speak exclusively for their national 'subjects'. In our view, civil society can be understood as a mobilising phrase for a transversal struggle, the struggle to assert and establish mediated spaces where social formations such as associations, movements and groups may act, informed, supported and encouraged by globally shared values and practices of civil society, and discursively construct visions of preferred social norms, practices and order that are not limited by national politics.

Mediated civil society in Asia: three outcomes of research

The three themes which emerge from this comparative study of transversal civil society and its imbrication with television in Asia are, first, that civil society is *well understood and is a long established* normative model and practice in Asia. In the ten countries discussed here, civil society, understood simply as a sphere of associational activities focused on general public interest issues, has been part of modern political life for at least thirty to forty years, and in some cases (Japan, Korea, the Philippines) for much longer. In the late 1980s and the 1990s there has been a worldwide resurgence of interest in civil society particularly because of dramatic political transitions and the perceived democratising potential of civil society, and this interest has been shared by Asian countries. But the civil society discourses that have inspired political and social reform in Asia have been imported from many different places and there has not been a unidirectional flow from the West to Asia. While, for some countries, the struggles in Eastern Europe have been the inspiration, in others, neighbouring countries have been more influential. In Indonesia, for example, former Malaysian Deputy Prime Minister Anwar Ibrahim's visit in 1995 was the catalyst for the development of an Islamist inflection of civil society as *masyarakat madani* (Rahardjo 1999: 145) that has developed alongside other theorisations of the concept (chapter 4). In the Philippines, the 'people power' activist tradition of the 1980s based on the mobilisation of a wide range of associations related to church and welfare agencies has provided a hospitable environment for the articulation of civil society discourse. In Australia and Hong Kong, on the other hand, the state itself has been most influential in fostering associational activity, as Flew and Lee describe in chapters 6 and 8 respectively.

Second, the concept of *civil society* has been adapted to national circumstances and figures very differently in the social and political life of different national societies discussed here. The nuances of meaning signified by phrases such as *gongmin shehui*, cultural civil society, *masyarakat madani*, *masyarakat sipil*, *shimin shakai*, *shimin sahoey*, civic society and *pracha sankhom*, which share family resemblances with the English language signifier, 'civil society', are subtle. The terminology has developed as part of the process of indigenising civil society in Asian countries and it is in the archaeology of this terminology written over the transversal discourse of civil society that we find distinctive Asian formations of civil society. Individual chapters explore the characteristics of civil society across the region and relate the history of television regulatory practices to different ways of framing the public in Asian countries.

Third, and most significantly, we suggest that *civil society* has had limited impact, and has paid limited attention to television, its regulation and public access to televisual public spheres. To put it bluntly, there is no securely established television mediated civil society in Asia. There are some systems where television may be on a path towards mediating public concerns in a more open and transparent way, but in most nations television is co-opted either by legacies of nation-building projects or by domestic market arrangements which put industry concerns ahead of public interest considerations. State authorities, in collusion with powerful and influential local media firms, have not allowed civil society into the regulatory space. As a result, in most countries television is out of civil society's reach. It is only in Korea, Thailand and Indonesia that there are civil society associations with a specific civil society-media focus. In Indonesia, the forum which has been most active in fighting for reform in the television sector is dominated by members drawn from different parts of the communications sector, and the broader interests of ethnic groups, religious minorities and provincial communities are not represented. In Thailand, where, as Lewis describes in chapter 1, a coalition of civil society organisations known as the 'Voice of the Voiceless' carried the media reform agenda, powerful political and commercial interests (sometimes one and the same) subverted the attempt to make the media more publicly accountable. In Korea, the civil society credentials of the current political elite have opened up a space for associations concerned with the media's role in society to flourish and work in tandem with state authorities in broadcasting reform (chapter 10). Here, then, is a clear illustration of what can be achieved when civil society reform is supported and protected by the state in legislation which opens up space for pluralism and participation. But here we also see the vulnerability of civil society. In Korea it depends on the vision and good will of politicians committed to civil society. But politics is a competitive arena, and today's gains may be threatened tomorrow.

We conclude that industry concerns dominate public interest concerns throughout the region and are assisted in doing so by a range of nationally

differentiated modes of co-option and collusion between state authorities and domestic operators. This is also true in those countries where there is greater openness internationally than domestically which has come about through the desire to position the national information and communications industry to take advantage of global developments.

If co-option and collusion have effectively downgraded civil society participation in television at the national level, might transversal civil society be strengthened by linking the discourse to multilateral agreements and institutions which promote greater transparency and adherence to the rule of law in the international trade of audio-visual products and services? Strategically this would extend the horizon of national civil society associations beyond the take-up of progressive civil society discourse to alliances with multilateral agencies and institutions which may be able to assist in the power play between state and commercial interests. But do these arrangements promote public interest principles such as transparency, accountability, participative decision-making and freedom of speech, or do they, in the name of the public interest and fairness, simply promote the interests of large multinational corporations? Amos Thomas argues forcefully in chapter 11 that multinational media corporations largely suit themselves in the arrangements they make with national governments. Is this likely to be true for multilateral trade agreements? Whose interests and what values do they prioritise? Whatever the answer to that may be, and these arrangements are still too new to really know who benefits, we suggest that civil society partnerships with global agencies would ultimately tie the struggle for the public interest to negotiations at the elite level, and that seems unlikely to deliver the kind of diversified, locally inflected, inclusive outcomes which are the strength, and the weakness, of associational activity. At a time when communication technologies are breaking up established ideas of mass audiences and creating a range of public spheres, solutions which either aggregate or overlook such diversity in the name of powerful, totalising outcomes seem to be out of touch with the need to preserve spaces of contestation at the national level. So while we support proposals which might make the struggle between civil society and powerful states and corporate interests more equal, we cannot see any solution to the dilemmas of civil society beyond recognising that struggle and contestation over the public interest is a transversal struggle that must continue across a wide range of activities and media saturated spaces of communication.

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Table A.I Television services in Asia: indicators

Country	Free-to-air TV began	% of house-holds which own TV sets	No. of TV sets per 1,000 people	% of house-holds with access to satellite TV	State broad-casting service ¹	Public broad-casting service ²	Free-to air commercial TV service began
Australia	1956	99	551	5	—	ABC	1956
China	1958	89	321	—	CCTV	—	—
Hong Kong	1967	99	281	20	—	RTHK	1967
Indonesia	1962	61	69	1	TVRI	TVRI ³	1990
Japan	1953	99	686	29	—	NHK	1953
Korea	1961 ⁴	100	347	—	—	KBS	1964
Malaysia	1963	97	169	6	TV1, TV2	—	1984
Philippines	1953	73	52	3	NBN	—	1953
Singapore	1963	99	372	—	—	TCS 5 TCS 8 STV 12	—
Thailand	1955	94	252	0.5	Channel 11 (educational)	—	1955

Source: Balnaves, Mark James Donald and Donald, Stephanie Hemelryk (2001); *The Global Media Atlas*; United Nations (2001) *Statistical Yearbook of Asia and the Pacific*; United Nations (2000) *Statistical Yearbook 44 Issue*.

Notes

¹ A state broadcasting service is a national service owned and run by state authorities which prioritises government goals and values in programming.

² A public broadcasting service is a national service which is non-profit, may be funded by government and/or licence fees, which strives for an independent editorial policy, caters for cultural diversity, is concerned with quality in programming.

³ TVRI is in transition from a state-owned and run service to a service managed on public broadcasting principles.

⁴ Korean television began in 1956 and broadcast for two to three years before fire destroyed studios and transmission capacity. Broadcasting resumed in 1961.

Table A.II Systems of nomination of regulatory bodies in Asia

<i>Regulatory bodies</i>	<i>Minister Government President Prime Minister Governor General</i>	<i>Parliament</i>	<i>Civil society Associations</i>
<i>Australia</i>			
Australian Broadcasting Authority	Governor General appoints; Minister proposes		
Australian Broadcasting Corporation (public broadcasting)	Minister appoints new Board members; Board chooses Managing Director		
Special broadcasting Service (multicultural public broadcasting)	Minister appoints new Board members; Board chooses Managing Director		
<i>China, Peoples Republic of</i>			
State Administration of Radio, Film, and Television (SARFT); Ministry of Information Industry (MII); State Administration of Industry and Commerce (SAIC); State Administration for Press and Publications (SAPP); Ministry of Culture (MoC); Chinese Propaganda Department (CPD)	Directors of regulatory bodies, propaganda department officials and CCTV directors are appointed directly by the Chinese Communist Party.	In lieu of a national broadcasting law the State Council ratifies administrative regulations. Some regulations are ratified by local governmental bureaus in accordance with guidelines issued by central authorities.	No pure civil society associations exist. Existing industry associations are made up of television executives, producers, Party members, and government officials.
<i>Hong Kong SAR</i>			
Broadcasting Authority; RTHK (public broadcasting) also under scrutiny of BA although it is a government department under the Director of Broadcasting	Minister proposes; Chief Executive in Council appoints		
<i>Indonesia</i>			
Indonesian Broadcasting Commission			
Central level	President appoints	Central and Regional House of Representatives propose	Propose

Regional level	Governor appoints		
Public Broadcasting Agency (public broadcasting)	President appoints	Central and Regional House of Representatives propose	Propose
<i>Japan</i>			
Radio Regulatory Council (spectrum only)	MPT appoints	Consent must be given by both houses of the Diet	
NHK (public broadcasting)	Prime Minister appoints Chair		
<i>Korea, Republic of</i>			
Korean Broadcasting Commission	President appoints; Government proposes	National Assembly proposes	
KBS (public broadcasting)	President appoints Board members		
<i>Malaysia</i>			
Malaysian Communications and Multimedia Commission	Minister appoints		
<i>Philippines</i>			
National Telecommunications Commission	President appoints NTC Commissioner and two Deputies	Senate Commission on Appointments reviews and confirms presidential appointments	Propose
Movie and Television Review Classification Board	President appoints all members		Propose
Videogram Regulatory Board	President appoints Chair, Executive Director of the Board and all other members		
<i>Singapore</i>			
Singapore Broadcasting Authority	Minister appoints. Refer Singapore Broadcasting Authority Act (Chapter 297)		
SBC (public broadcasting)			
<i>Thailand</i>			
National Broadcasting Commission	Propose	Senate appoints	Propose
National Telecommunications Commission	Propose	Senate appoints	Propose

Table A.III Powers and functions of regulatory bodies in Asia

<i>Australia</i>		<i>Powers and functions</i>			
<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>		<i>Re regulation and supervision of broadcast sector:</i>	
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	

<i>China</i>	<i>Powers and functions</i>						
<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>			<i>Re regulation and supervision of broadcast sector:</i>		
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
State Administration of Radio, Film and Television (SARFT)		Approves the establishment of cable channels; manages the day-to-day operation of the national broadcaster CCTV; licenses the establishment of production companies, notably television drama companies; approves licences for foreign documentaries.	Responsible for spectrum issues in collaboration with MII.	Submits recommendations to State Council in relation to the management of Chinese cable, satellite, and terrestrial services. Authorises landing rights for foreign channels.	Overall responsibility for approving content of television programming and regulating the broadcast of foreign material in accordance with the guidelines of the Chinese Propaganda Department.	Conducts inspection of content standards and procedures in tandem with Chinese Propaganda Department officials at all levels.	Can impose sanctions through Bureau of Disciplinary Inspection. This may involve revoking licenses or imposing a financial penalty.
SARFT bureaus at provincial level							

Table A.III continued on next page

China

Powers and functions

<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>			<i>Re regulation and supervision of broadcast sector:</i>		
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
Ministry of Information Industry (MII)				Responsible for overseeing broadcasting networks in formulating national strategies, policies, plans, regulations and technical standards for the information industry. The MII is responsible for regulating commercial applications of wireless, fixed line and satellite networks. There are some areas of overlap with SARFT due to the convergence of telecommunications, broadcasting and telephony.			
Chinese Propaganda Department (CPD)				Advises and guides central government bodies concerned with content i.e SARFT and State Administration of Press and Publications (SAPP).	Regulates and determines the content of national news broadcasts on CCTV.	Propaganda Department officials are responsible at station level for approving content.	

Hong Kong SAR		<i>Powers and functions</i>		<i>Re regulation and supervision of broadcast sector:</i>			
<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>		<i>Re regulation and supervision of broadcast sector:</i>			
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
Broadcasting Authority	Statutory body (Cap. 391)	Television and Entertainment Authority (TELA: Executive arm of BA)	Office of Telecommunication allocates spectrum (OFTA: Executive arm of Telecommunication Authority)	Yes	Yes	Yes	Yes

Table A.III continued on next page

Powers and functions

<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>			<i>Re regulation and supervision of broadcast sector:</i>		
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
Indonesian Broadcasting Commission	Statutory body	No. Makes recommendations to responsible ministry.	No	No	Sets standards for programmes and advertising commercials.	Monitors compliance with standards.	Yes
*These details are draft proposals only. The Indonesian parliament has not passed new legislation to replace Broadcasting Law #24, 1997.							

Japan								
Powers and functions								
Re administration and management of broadcast sector:								
Regulatory body	Legal status	Licensing		Spectrum assignment	Advisory	Programme content	Investigate	Impose sanctions
No independent regulatory body except for Radio Regulatory Council (RRC)	Statutory body directly appointed and controlled by MPT	RRC issues spectrum licences for radio and television.	RRC allocates frequencies for radio and television.	No	No	No	No	No
Political regulatory authority is Ministry of Posts and Telecommunications (MPT).	Government department	Not directly. Influences decisions by advising RRC re licensing.	Not directly. Influences decisions by advising RRC re licensing.	MPT advises RRC and selects and appoints members of RRC.	Extensive political intervention by MPT	An independent committee will be set up to investigate content when deemed necessary.	May delay re-licensing by ordering commercial stations to testify before the Communication Policy Council of the Diet.	

Table A.III continued on next page

Korea**Powers and functions**

<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>			<i>Re regulation and supervision of broadcast sector:</i>		
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
Korean Broadcasting Commission (KBC).	Independent government agency.	Issues, renews and cancels licences. When it needs to, Commission may seek advice from MOIC.	No	Advises on national policy objectives for broadcasting industry; promotes and manages Broadcast Development Fund collected from broadcaster contributions.	Commission develops programme and advertising standards and monitors compliance.	Commission may investigate activities to ensure compliance with Broadcast Law 2000.	Yes

<i>Malaysia</i>		<i>Powers and functions</i>		<i>Re regulation and supervision of broadcast sector:</i>		
<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>		<i>Re regulation and supervision of broadcast sector:</i>		
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Impose sanctions</i>
Malaysian Multimedia and Communication Commission	Statutory body	No direct licensing powers. Commission makes recommendations on individual and class licences to minister.	Yes	Advises minister on national policy objectives for communication and multimedia activities; encourages and promotes development of communications and multimedia industry; encourages self-regulation in the communications and multimedia industry.	Content Forum established by Commission develops Content Code and monitors compliance. Commission may investigate activities to ensure compliance with Communications and Multimedia Act 1998.	No

Table A.III continued on next page

Philippines

Powers and functions

Regulatory body	Legal status	Re administration and management of broadcast sector:				Re regulation and supervision of broadcast sector:		
		Licensing	Spectrum assignment	Advisory	Programme content	Investigate	Impose sanctions	
National Telecommunications Commission (NTC).	Government agency attached to Department of Transportation and Communication. NTC's quasi judicial decisions are appealable only and directly to the Supreme Court.	Issues, renews and cancels licences.	Yes	Provides technical advice to other government agencies.	No	Investigates violations of technical standards.	Imposes penalties for standards violations.	
Videogram Regulatory Board.	Agency directly under office of the President.	Licenses domestic producers and distributors.	No	No	No	Yes	Yes	
Movie and Television Review and Classification Board.	Agency directly under office of the President.	No	No	No	Classifies and censors content prior to broadcast.	No	No	

<i>Singapore</i>	<i>Powers and functions</i>		<i>Re regulation and supervision of broadcast sector:</i>					
<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>	<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
Singapore Broadcasting Authority (SBA)	Statutory body	Yes. The minister directs according to the Act. Refer Singapore Broadcasting Authority Act Chapter 297.	The state still controls the major technological decisions. The Ministry of Information Technology and the Arts (MITA) allocates spectrum after reference to the SBA Act, Chapter 297.	The government regulator and operators are closely linked in developmental strategies encouraging self-regulation.	Sets programming standards by Codes of Practice (refer SBA Act Chapters 197 and 297) complemented by a more subtle emphasis on social responsibility and self-regulation.	Monitors compliance. Close control is maintained over broadcasting to ensure output reflects and reinforces the views and policies of the government. Refer Part III Functions, Duties and Powers of the SBA.	Yes. May entail loss of licence.	

Table A.III continued on next page

Thailand

Powers and functions

<i>Regulatory body</i>	<i>Legal status</i>	<i>Re administration and management of broadcast sector:</i>			<i>Re regulation and supervision of broadcast sector:</i>		
		<i>Licensing</i>	<i>Spectrum assignment</i>	<i>Advisory</i>	<i>Programme content</i>	<i>Investigate</i>	<i>Impose sanctions</i>
National Broadcasting Commission (1992-1998). The functions of the new NBC created August 1998 are yet to be finalised (Dec. 2001).	Political regulatory agency	Issues, renews and cancels licences for television operators.	No. Posts and Telegraphs Department allocates spectrum.	Legal adviser: Council of State. NBC may provide technical advice.	NBC determines under guidelines of Broadcasting Regulations of 1992 and 1994 which contain detailed provisions re programme content and advertising.	NBC to deal with broadcasting complaints.	NBC can censor and direct programme content to the extent of removal of stations.
Mass Communication Organisation of Thailand (MCOT).	State enterprise	Licensee for Channels 9 and 3 and Pay TV		Television policy advice	Implements NBC programme regulations.		
Public Relations Department (PRD).	State agency	Licensee for Channel 11		NBC administrator	Issues speech certificates for all broadcasting hosts .		

Profiles

National television systems in Asia and Australia

AUSTRALIA – TERRY FLEW

Television first went to air in Australia on 16 September 1956, and its introduction coincided with the 1956 Melbourne Olympics. At its commencement, there were two commercial stations in Sydney (TCN 9 and ATN 7) and two in Melbourne (GTV 9 and HSV 7), with one public broadcasting service channel (ABC, Australian Broadcasting Commission, later Corporation) operating in each city. Broadcast television transmissions commenced in Brisbane, Adelaide and Perth in 1959, and access to television services was gradually extended throughout Australia through the 1960s and 1970s. Remote areas of Australia, with large indigenous populations finally received television through BRACS (Broadcasting to Remote Aboriginal Communities Services) in the late 1980s, after the 1985 launch of the AUSSAT satellite, which enabled national television networking.

Television as a medium was taken up quickly by Australians. By 1964, 80 per cent of Australian homes had a television, and this figure had reached 90 per cent by 1973. The early years of Australian television were dominated by imported programmes from the United States and, to a lesser extent, the United Kingdom. Local content policies for commercial broadcasters were first developed in 1960, with a 40 per cent quota, and the 1960s and 1970s saw local drama production increase, as Australian programmes proved to be popular with Australian audiences. This shift towards local drama was led in the 1960s by police crime dramas such as *Homicide*, while in the 1970s Australia became a leader in the production of low-cost serial dramas, with *Number 96*, *The Young Doctors*, *The Restless Years* and *Prisoner* being among the popular television ‘soaps’ of the period. In the 1980s and 1990s, *Neighbours* and *Home and Away* achieved major domestic and international success.

The structure of Australian television was relatively constant from 1956 to 1970, with the major change being the Ten network commencing broadcasting in 1964–65. Commercial television was regulated by the Australian Broadcasting Control Board until 1976, when it was replaced by the Australian Broadcasting Tribunal. The arrival of colour television in 1975 triggered a new round of television purchases among Australian consumers, and in turn generated new forms of content, including music television programmes such as *Countdown* (screened on the ABC from 1974 to 1987)

and one-day cricket (developed by Kerry Packer's Nine Network in 1977 as a breakaway World Series Cricket tournament).

Three features characterised Australian television in the 1980s. First, the Australian Federal government established the Special Broadcasting Service (SBS), which commenced broadcasting in 1980. By interpreting its Charter broadly and positioning itself as an innovative provider of a diverse range of programming to a culturally diverse audience, rather than simply being a relay of non-English language programming to various diasporic communities, SBS developed into Australia's most dynamic and innovative broadcasting service by the late 1990s.

Second, the 1980s saw a strong policy-driven push for greater Australian content on the commercial free-to-air networks. The 1980s were the heyday of the Australian mini-series as a form of high-budget, 'quality' local production, with over a hundred mini-series broadcast on Australian television from 1978 to the early 1990s. The mini-series boom also strengthened connections between the Australian industry and international networks, with *Return to Eden* (1982) and *The Last Frontier* (1986) achieving significant international sales, and *Brides of Christ* (1991) and *The Leaving of Liverpool* (1992) being co-productions between the ABC and the British Broadcasting Corporation (BBC).

The third major change of the 1980s was legislative reform during 1985–86 which allowed national networking and greater concentration of ownership within a medium, on the condition that media proprietors did not exercise power *across* media. One consequence of these legislative changes was the rise of 'entrepreneurial television', where speculative investors such as Alan Bond and Christopher Skase bought Australian commercial television networks at over-inflated prices at the height of the 1980s stock market boom, and were forced to sell at greatly reduced prices in the early 1990s. The early 1990s mark the only period in the history of Australian television broadcasting where the three major networks have not made above-average profits from the ownership of broadcast licences.

In 1992, the fifty-year-old *Broadcasting Act* was replaced by the *Broadcasting Services Act*, explicitly intended to promote greater competition and the introduction of new technologies and services by establishing a new regime of 'light touch' regulation, overseen by the new Australian Broadcasting Authority. Pay TV commenced in Australia in 1995, thirteen years after its immediate introduction was recommended, and after a farcical process of licence auctioning and political interference. The major Pay TV provider in Australia is Foxtel, jointly owned by Rupert Murdoch's News Corporation, Telstra and Kerry Packer's PBL, with Optus Vision and Austar being the other major providers. In December 2000, an estimated 1.2 million homes, or about 20 per cent of Australian television households subscribed to these Pay TV services. Outside of sports, where popular local sports such as cricket, rugby and Australian Rules football are a major driver of new subscriptions, content on Pay TV services is largely imported,

but the ABA has sought to require 10 per cent Australian content on channels that can be considered to be primarily drama channels, with the possibility of increasing this quota to 20 per cent in the near future.

The precipitous decline of the Australian Broadcasting Corporation in the 1990s, as it lost funding, audiences and political support, has had a major impact on the Australian television landscape. Having long been the major provider of innovative programming concepts, by the late 1990s the ABC was increasingly becoming a relay station for BBC programmes aimed largely at older, middle-class audiences. It also had a disastrous period in 1999–2001, where a Board dominated by Howard Liberal–National Party government supporters (who had long accused the ABC of left-wing political bias) appointed an unknown former Liberal Party staffer, Jonathon Shier, as Managing Director, in a process that led to the loss of key personnel, a rapid decline in staff morale, and little new programming. The ABC has, nonetheless, been a leader in online services, with *ABC Online* being among the most accessed Web sites in Australia, alongside *ninemsn*, jointly developed by PBL and Microsoft.

CHINA – MICHAEL KEANE

The Chinese television industry is currently in a state of unprecedented flux. With the largest television audience in the world, China finds itself confronting the problem of an over-supply of television stations and an under-supply of quality domestic programming. China's entry into the World Trade Organisation in December 2001 has been the impetus for a rationalisation within the industry with the formation of several media conglomerates that are intended to bring a new ethos of competitiveness to the industry. The largest of these 'national champions' of China's media will be known as the China Radio, Film and Television Group. This involves a merger of the country's largest broadcasting services, including China Central Television, China Film Group Corporation, China National Radio, China Radio International, China Radio Television Transmission Network, and China Radio and Television Web site.

History and development

Television began in China on 1 May 1958 with the first broadcast from Beijing Television, which was renamed China Central Television (CCTV) in 1976. This initial broadcast occurred at a time of stringent Party control of the arts and media following the Communist Party's Anti-Rightist campaigns that resulted in the arrest of many vocal critics of the regime.

While China's political leaders view television as the pre-eminent propaganda tool and means of maintaining social control, at the time of its inception in 1958 there was no clear understanding as to how the new

technology might be utilised. Lack of technical infrastructure was the main impediment to development. However, the initial ambivalence towards the medium was overcome by the early 1980s, a period that witnessed the introduction of deregulatory policies designed to stimulate the spread of television stations and to increase local investment in the industry.

During the period 1984 to 1990 the number of terrestrial stations increased from 93 to 509. By 1995, there were reportedly 2,740 television channels, including educational channels and cable stations. Television programmes were being beamed off 96,530 ground relay stations to China's remote regions. It has been calculated that more than 95 per cent of homes in large urban centres have at least one television.

By way of contrast with the development of terrestrial stations, cable networks had their origin in the 1970s. The principle of cabled signal transmission systems, initially established to provide wired loudspeaker networks during the 1950s, was later applied to television signal distribution. Master access television (MATV) systems distributed free-to-air signal transmissions. The first system was set up in 1974 in the Beijing Grand Hotel. In 1982 the government decided that all new residential blocks would be equipped with ducts for cable television although no decisions were made on standardising networks. By 1998 China's rollout of cable exceeded 1,340,000 kilometres and by 1999 there were eighty million subscribers to cable television.

Policy making

China's television policy making exhibits somewhat schizoid tendencies due to the television industry's status as a state-owned enterprise (SOE) which is expected to transform into a self-financing concern. Until 1998 the Chinese television industry fell under the regulatory control of the Ministry of Radio, Film and Television (MRFT), under the supervision of the State Council, the principal organ of legislative government. Policy making was invariably directed at maintaining a viable domestic industry, overseeing management and monitoring content.

At the First Session of the Ninth People's Congress in 1998 the MRFT was downgraded to the General State Administration of Radio, Film and Television (SARFT) and the responsibility for the overall coordination of the sector was passed over to a new super ministry, the Ministry of Information Industry (MII), an amalgamation of the Ministry of Posts and Telecommunications (MPT) and Electronics Industry (MEI). Whereas the MII is responsible for development strategies, particularly in relation to policies, laws and regulations impacting upon the 'information economy', SARFT retains the capacity to license and censor content on broadcasting networks and to manage the country's existing broadcast infrastructure. The SARFT also grants 'landing rights' for foreign broadcasters seeking to penetrate the China market. At the time of writing, deals have been struck to allow AOL Time Warner-owned China Entertainment TV and News Corporation's Phoenix TV to broadcast into Guangdong province in Southern China.

Administration, infrastructure and programming

In contrast to privately owned and operated media systems in mixed economies, China's state-owned broadcasters are not consolidated into competitive networks, but rather operate according to geographically determined infrastructural logistics premised on the ideal of assuring information and propaganda reaches all segments of society. This overvaluing of access has created dilemmas for national competitiveness. Television broadcasters are organised on four administrative levels headed by the national broadcasters CCTV and CETV in China's capital, Beijing. CCTV broadcasts nine channels while CETV operates two channels that are a mandatory feed for all cable operators. The second level is made up of provincial broadcasters, which broadcast their main entertainment channels by satellite as a result of a lease of Chinasat transponder space. The rationale for this arrangement is that there are many communities beyond the reach of terrestrial signals. The third level is made up of city stations, often in competition with provincial stations and CCTV for audience share. The final administrative level comprises hundreds of county stations, many of which are actually relay stations.

However, the number is rapidly diminishing. Enforced rationalisation has occurred under a broadcasting law formulated by the Ministry of Information Industry (MII) and the State Administration of Radio, Film and Television (SARFT). This rationalisation is an endeavour to overcome duplication and make China's audio-visual sector more competitive. At present the television industry is evidence of what the Chinese call 'duplicate construction' (*chongfu jianshe*), that is, everyone rushes in and produces the same kinds of products and targets the same markets within a particular locality. This structural isomorphism along with miniaturisation (the small scale of many stations) means that there are a lot of under-capitalised television stations forced to swap programmes on a barter basis (e.g. television dramas).

The most ubiquitous form of programming remains television drama. Programmes are generically classified into three broad categories: news (news broadcasts, current affairs), arts and entertainment (variety shows, dramas, game shows and music) and education (talk show, children's shows, university programmes). Technological changes in delivery platforms have, however, changed the focus from mass audiences to fragmented audiences with Shanghai Television implementing video-on-demand (VOD) services. The demand for new content has, in turn, put pressure on stations to seek out new programme formats.

HONG KONG SAR – PAUL S.N. LEE

Television first appeared in Hong Kong in 1957. Indeed Hong Kong was the first British colony to have television. It was a cable television service run by the Rediffusion Company which had operated a highly successful wired sound broadcasting service since 1949. But the Rediffusion television service

was very expensive. Its monthly subscription fee was HK\$55. In 1958, a technical worker's monthly wages were HK\$360 and an unskilled worker earned only HK\$75. A year before the introduction of free-to-air television in 1967, Rediffusion television had only 67,000 subscribers. Thus before 1967, television in Hong Kong was an elite medium and its social impact was minimal.

After the introduction of free-to-air television in 1967, however, television penetrated rapidly and became a genuine mass medium in 1970s. In 1975, eight years after the emergence of free-to-air television, 88 per cent of Hong Kong households possessed a television set. In 1990, 100 per cent of households had at least one television set.

RTV's cable television service was developed as a free-to-air service in 1973 and a third free-to-air service with an emphasis on instructional television, named Commercial Television (CTV), was introduced in 1975. At that time there were a total of three Chinese channels and two English channels. Both TVB and RTV operated a Chinese as well as an English channel, whereas CTV operated only a Chinese channel. Three years later, unfortunately, CTV was wound up because of heavy financial losses.

After the demise of CTV in 1978, a duopoly structure existed in the television industry for more than two decades. Nevertheless, RTV always lagged behind TVB in the rating race. Its ownership has changed several times and it is now known as Asia Television (ATV). For the past quarter century, TVB's Chinese channel, Jade, was the dominant player in the market. It has consistently enjoyed more than a 70 per cent share of the Chinese speaking audience during prime time. More than 95 per cent of Hong Kong's seven million population are Chinese. Because of its dominance, TVB has earned huge profits.

By 2001, Hong Kong viewers were able to receive over thirty domestic television channels. The two domestic free television programme service licensees – namely, Television Broadcasts Limited (TVB) and Asia Television Limited (ATV) – each broadcast over two free-to-air channels. Hong Kong Cable Television Limited (HKCTV), a domestic pay television programme service licensee, carries over thirty channels. PCCW VOD Limited (PCCW VOD) launched its video-on-demand programme services in March 1998.

The six non-domestic television licensees include Hutchvision Hong Kong Limited (Hutchvision), which provides satellite broadcasting services (STAR TV) across the Asian region. The others are Galaxy Satellite Broadcasting Limited, APT Satellite Glory Limited, Starbucks (HK) Limited, Asia Plus Broadcasting Limited and MATV Limited.

ATV and TVB are licensed to broadcast one Cantonese and one English language channel each. Under the terms of their licences, ATV and TVB are required to broadcast news, documentaries, current affairs, educational, arts and culture programmes, programmes for children, young persons and senior citizens, as well as programmes provided by RTHK. On average, they transmit more than 600 hours of programmes weekly, reaching about 6.4 million viewers, or two million households.

HKCTV started broadcasting services in 1993. It currently offers thirty-one channels. The network of HKCTV has been rolled out to 1.8 million households, of which about 1.4 million premises have access to the fibre optic system. PCCW VOD launched its video-on-demand programme service in March 1998. It offers viewers a choice of interactive multimedia services ranging from movies and general entertainment to infotainment and interactive learning programmes.

In December 2000 three new domestic pay television licences were granted to Yes Television (Hong Kong) Limited, Pacific Digital Media (HK) Corporation Limited and Galaxy Satellite Broadcasting Limited. The new services are expected to bring in over seventy new television programme service channels for Hong Kong viewers.

Hutchvision, the first Hong Kong based satellite television licensee, started broadcasting its STAR TV network in 1991. This network transmits twenty-eight channels in seven languages and reaches approximately 300 million viewers in fifty-three Asian countries. Four free-to-air channels of STAR TV's services are receivable in Hong Kong through satellite master antenna television systems. These channels are STAR Sports Asia, STAR World, Channel [V], and the Greater China Phoenix Chinese Channel.

In 1998, Galaxy Satellite Broadcasting Limited started to transmit two satellite television channels targeting overseas Chinese viewers in Asia, Australia, the Middle East, South Africa and parts of Europe. Non-domestic television programme service licences were granted respectively to APT Satellite Glory Limited in July 1999, Starbucks (HK) Limited in January 2000 and to Asia Plus Broadcasting Limited and MATV Limited in April 2001.

Many other companies transmit satellite channels from Hong Kong, including the Chinese Television Network, Reuters Asia Limited and CNN International. However, Hong Kong people mostly watch the Chinese channels of the two terrestrial services, TVB and ATV, because they have most Cantonese local productions.

INDONESIA – PHILIP KITLEY

Like television in many other countries, television in Indonesia began with a national ceremony and a sports carnival. On 17 August 1962 the first television images produced in Indonesia celebrated Indonesia's declaration of Independence in 1945. On the 24 August 1962, regular transmission began and the people of Jakarta and nearby Bandung were able to enjoy live coverage of the Fourth Asian Games held in Jakarta. Games organisers maximised audiences by setting up public television sets on towers in downtown Jakarta, but even so the numbers of people able to enjoy the new Televisi Republik Indonesia (TVRI) were very small, probably only about 80,000 people.

The sprawling archipelago of Indonesia made expansion of TVRI very difficult. Early plans projected a dispersed network of regional television stations to be funded from the national budget, advertising revenue, and sponsorships organised by the Foundation which managed TVRI on behalf of the government. The attempted coup d'état in 1965 led to an emergency restructuring of TVRI and from 1965 until 1990 television in Indonesia was a centre-out, single-channel, state monopoly dominated by Jakarta.

In 1976 Indonesia became just the third country in the world to launch its own domestic satellite. The Palapa satellite facilitated a rapid expansion of television infrastructure, and put TVRI's programming within reach of 60 per cent of the total population by 1980. Prior to the launch, less than 4 per cent of the population were able to enjoy television. As television coverage reached beyond Java, the government of President Soeharto wrapped TVRI more closely into the state bureaucracy by placing it under the control of the Department of Information and began to use television more deliberately to socialise its national development priorities. In 2001, TVRI has a staff of 7,000 throughout Indonesia, with one central, and eleven regional broadcast stations, six mobile broadcast units and a nationwide network of nearly 400 transmitters covering 80 per cent of the population. RCTI, with the best developed infrastructure of the commercial stations, has forty-seven transmitters covering 45 per cent of the total population.

Over the years 1976–89, TVRI's programming shifted away from an emphasis on entertainment to more didactic, development-oriented programming. A ban on advertising on TVRI in 1980 placed TVRI programming more or less completely under government direction. Programming became more and more concerned with government activity and the inculcation of the national ideology, Pancasila. Indonesian audiences responded negatively and looked for more entertaining sources of television. Video cassettes offered an alternative and, for those who could afford it, so did satellite television. Unlike neighbouring Singapore and Malaysia, however, Indonesia adopted an 'Open Skies Policy' and permitted citizens to erect satellite dishes and access international programming.

Pressure from entrepreneurs wanting to take advantage of globalised flows of programming led to the break up of TVRI's monopoly. From 1990 to 1995, five new national commercial television stations were established. These stations were all owned by relatives or cronies of the presidential family, and were established without public tender for licences. RCTI and SCTV began free-to-air services on 24 August 1990, having established themselves in 1989 as Pay TV services located in Jakarta and Surabaya. On 23 January, the educational channel TPI began its free-to-air commercial service, and on 28 February 1993 ANTEVE began broadcasting, followed by Indosiar on 11 January 1995. These stations broadcast mainly imported programmes, with international sport and movies attracting large audiences.

Even though commercial channels were required to relay TVRI news broadcasts, the commercial channels developed so-called 'soft news'

bulletins which drew audiences away from the ceremonial news presented on TVRI. Commercial television is the preferred advertising medium and in 1998–99 attracted 60 per cent of total advertising expenditure. Advertising in newspapers, television's nearest rival, accounted for only 26 per cent of total expenditure.

For as long as TVRI was the only television service available, broadcasting was regulated largely by decrees issued by the Minister for Information. In the early 1990s the growing complexity of the television sector, advocacy by non-government interests concerned with issues such as pornography, screen violence and the lack of children's programming pushed the government into developing legislation to regulate television and radio. The nation's first broadcasting law (#24, 1997) pleased nobody. Commercial operators felt that it did not protect their interests sufficiently and pushed the President to withhold assent to the Bill. Advocates for tighter regulation of programming were also disappointed, as the law made no specific provision for children's programming and compromised on sex and violence. Media scholars and critics considered that the law was backward-looking and failed to recognise significant developments in new television technologies and services. Many commentators argued that the law left too much of the regulation of the sector up to the Minister and made little room for community involvement.

Widespread public dissatisfaction with the corruption, cronyism and nepotism of the Soeharto government, and the inability of the Indonesian economy to address the Asian economic crisis forced Soeharto to resign in May 1998 and install Dr B.J. Habibie as his successor. The Habibie government immediately liberalised media affairs and opened up the market for five new television licences. Specialist news channel MetroTV, owned by newspaper tycoon Surya Paloh, went on air in February 2001. Transformasi TV, owned by banker Chairul Tanjung with Ishadi SK as Head of Operations, began broadcasting in October 2001. The new TV Global, said to have links with the Bimantara conglomerate which is the owner of RCTI, began broadcasting in October 2001. The Gramedia publishing group, publisher of the leading daily *Kompas*, purchased the Duta licence and went on air as TV-7 on 25 November 2001. The dynamic Jawa Pos press group beat Gramedia to the punch with a regional television service located in Riau targeting Malaysian and Indonesian audiences. Gramedia's move into television prompted concerns about growing cross-ownership relationships between three major press publishers, Media Indonesia, Jawa Pos and Gramedia, which have all set themselves up in television broadcasting at a time when the Broadcasting Law is effectively in limbo. In June 2000 TVRI's status was changed by presidential decree to that of a government-owned business corporation under the control of the Minister for Finance. TVRI's new Vision and Mission statements redefine its role as a non-partisan public broadcaster.

Opening up the public sphere even further were a number of reformist non-government organisations and associations which were active in discussions

with parliamentary representatives over redrafting the Broadcasting Law, in strengthening radio and television stations' journalism capacities, and in influencing programming content and policies. Broadcasting Law #24, 1997 was never finalised, as the supplementary regulations to be introduced by the Department of Information lapsed when the department was dissolved by the Abdurrachman Wahid government in October 1999. A new Press Law which guarantees freedom of opinion and speech has encouraged those interested in redrafting the Broadcasting Law, but the debate is proceeding very slowly at the time of writing with a new parliament which is inexperienced and not well-informed about modern media.

Indovision is the sole cable operator in Indonesia. The service is considered expensive and has limited penetration.

JAPAN – CHALINEE HIRANO

Television broadcasting in Japan is characterised by a dual system of a public broadcaster, the Japan Broadcasting Corporation or *Nippon Hôso Kyôkai* (NHK), and commercial broadcasters or *minkan hôsô*. NHK is guaranteed by law to receive fees from every broadcast-receiving household, and therefore carries no commercial advertisements.

Television broadcasting in Japan commenced after the Second World War. The regulatory framework for television broadcasting was established by the US Occupation Force in 1950. This consisted of the Radio Law, the Broadcast Law, and the Radio Regulatory Commission Establishment Law. Only the Radio Law, which regulated broadcasting frequencies and licences, and the Broadcast Law, which dealt with NHK operations and programming content of all broadcasters, remain in effect today. Both the Radio Law and the Broadcast Law were administered by the Minister of Posts and Telecommunication (MPT). Noticeably, the regulatory framework under which both the public broadcaster and the commercial broadcasters would operate was firmly established long before the introduction of television. Later attempts to challenge this regulatory structure have always failed.

On 1 February 1953 NHK began broadcasting in the Tokyo area. Nippon Television (NTV) became the first commercial broadcaster that went on air in the same year. From 1953 to 1962, the television penetration rate rose from 0.1 per cent to 45.8 per cent of the population. Television became an object of mass consumption in 1959 – the year of the royal wedding between Emperor Akihito and Michiko Shoda, and in 1964 – the year of the Tokyo Olympics. Four more stations were quickly established in this period. Two TV stations emerged from radio stations: Tokyo Broadcasting System (TBS) from Radio Tokyo and Fuji TV from Bunka Hôso Radio and Movie Company Limited. TV Asahi was established by a publishing company in 1959 as an educational channel, and so was Channel 12 Tokyo, which was established by the Foundation for Science and Technology in 1964.

The alliance between national newspapers and commercial stations was first seen in the case of NTV and Yomiuri Shimbun. This alliance was beneficial as the new medium was able to rely on established newspapers for capital, personnel and advertiser contacts. As for newspaper companies, television offered a relatively high return on investment, and they could fully utilise their resources. Other big newspaper companies soon followed the trend by developing linkages and acquiring ownerships of television companies. These linkages included those between Asahi Shimbun and TV Asahi, Mainichi Shimbun and TBS, Sankei Shimbun and Fuji TV, and Nihon Keizai Shimbun and TV Tokyo. By 1973, newspaper companies solidified their ownership of commercial stations by accumulating their shares over the year and undertaking informal trading of stocks among themselves.

In comparison with commercial networks, NHK has more advanced broadcasting technologies, and more staff than any of the commercial networks. NHK's terrestrial broadcasting services comprise two channels: a general and an educational channel. The general service provides a wide variety of programming, such as news and current affairs, documentaries, sports, traditional and modern drama, operas and concerts. The educational service was specifically designed to deliver educational materials to both children and adults. However, NHK is required by the Broadcast Law to keep a balance among programmes of news and information, cultural and educational programmes, and entertainment. NHK also operates regional television channels.

Apart from terrestrial broadcasting, NHK operates two twenty-four hour satellite pay channels, BS1 and BS2. BS1 is a satellite service for general news and information, both domestic and foreign, with the focus on news, documentaries and sports. BS2 provides an entertainment service, focusing on art and culture. NHK also operates the HDTV Hi-Vision channel, which broadcasts live programmes with high fidelity and high-definition visual images. This service broadcasts fourteen hours a day, and has provided extensive coverage of the last two Olympic Games.

In 1998, there were 126 commercial television broadcasters in Japan. Each of these stations belonged to one of the key networks based in Tokyo and owned by big newspaper companies. These local stations air programmes produced by their network, as well as their own independent programmes. According to the MPT's survey of total broadcast hours of all commercial stations in 1998, entertainment programmes accounted for 39.2 per cent, cultural and educational programmes accounted for 25.4 per cent, and news and information programmes accounted for around 20 per cent of total broadcasting time.

Due to the high degree of similarity in programming content amongst commercial stations, there is fierce competition for ratings. In the 1980s, TV Asahi introduced a pioneering prime time eighty-minute news programme called *News Station*. Positive audience responses to the programme prompted other commercial stations to launch similar news programmes.

This development also shifted the fundamental emphasis amongst commercial broadcasters from entertainment to news programmes. More innovative news as well as current affairs programmes also had success in other time slots. The success of these programmes on commercial networks challenged the long-term domination of NHK's news programmes.

The success of these programmes also drew undesirable attention from politicians and bureaucrats, who tried to maintain their control over what was broadcast. As Article 21 of the post-war constitution guarantees freedom of expression, the MPT could not pass any legislative ordinance that would violate this basic right. Rather, extra-legal measures, such as informal bargaining, deals and exchange of favours, were established between MPT bureaucrats and executives and journalists of commercial stations to maintain the level of bureaucratic control over broadcasting content. In recent years there have been a number of cases which demonstrate that the pattern of relationships between MPT bureaucrats and commercial broadcasters has gradually changed from coordination and integration to confrontation. This is exemplified by the commercial broadcasters' submission to political demands for the sake of renewing their licences.

The MPT relaxed the Broadcast Law in the early 1990s when confronting a rapid change in media technology. Specifically, it loosened restrictive regulations that limited the number of cable TV companies to only one per area and barred foreign investment and companies outside the area. The MPT also allowed foreign investment to enter the communication satellite business, which uses digital technology to broadcast multiple channels. With the advent of digitalisation, the MPT was forced to consider drafting a new broadcast law. Recommendations made in the draft were in line with the MPT economic and industrial objectives, and lacked concern for the social benefits of television broadcasting.

KOREA – KI-SUNG KWAK

Television in South Korea (hereafter Korea) was established in 1960 as a national broadcasting service owned and operated by the state. From 1965 to 1979 it consisted of both commercial and state broadcasting stations (1965–1979). From 1980 it reverted to a public broadcasting monopoly, and today may be understood as a duopoly of public and commercial broadcasters. Virtually all major changes in the structure of television have followed a change in government.

There are three major over-the-air broadcasters: two public broadcasters, the Korea Broadcasting System (KBS) and the Munhwa Broadcasting Company (MBC), and one commercial broadcaster, the Seoul Broadcasting System (SBS). KBS and MBC provide television and radio services through their own nationwide networks, while SBS broadcasts in Seoul and its surrounding areas. These major broadcasters are complemented by nine

regional private broadcasters which provide television services in the nine largest cities in Korea, and each covers its respective geographical area. These nine regional broadcasters, due to their regional and commercial nature, are loosely associated with SBS in programming.

Cable television in Korea started in 1995 with twenty-nine channels. It is operated by three different sectors: station operators, programme providers and network operators. Despite optimistic predictions, except for a handful of channels, cable television in Korea has experienced difficult times. This has been largely due to the government's poor management of the industry which includes a lack of regulation. Although Korea's own broadcasting satellite was launched in the middle of 1997, satellite broadcasting in Korea has been delayed due to the complete absence of a legal structure to safeguard operators and regulate activities. In the new Broadcast Law of 2000 it was proposed that satellite television would be in operation from 2001.

Newspaper companies and business conglomerates were allowed to own and operate broadcasting services in the 1960s and 1970s. The 1980 media reform, enforced by the Chun Doo-Hwan government, prohibited any private companies from providing broadcasting services. The reform also banned any type of cross-media ownership by placing all existing broadcasters under the umbrella of public broadcasting.

Foreign ownership and foreign investment in the Korean media were strictly prohibited until 1995, when the government partially lifted restrictions on the foreign ownership of cable television. Faced with financial problems caused by the devaluation of Asian currencies against the US dollar at the end of 1997, the Korean government was further forced to deregulate various industry sectors, including the broadcasting industry. As a result, the Korean government opened up the media industry to foreign investors, with the exception of free-to-air broadcasting.

Television regulation

The regulatory structure of television broadcasting in Korea has been characterised by a strong centralised bureaucratic-authoritarian state. It was controlled by successive military governments until the end of 1980s. The measures they used to control the media were explicit, such as direct intervention in management and personnel affairs, overt censorship, the guidance system and arrests of anti-government journalists/editors without warrants. Television in Korea was under the strict control of the Park Jung-Hee (1961–79) and the Chun Doo-Hwan (1980–87) governments, with each new government deciding its role and function. The changes in domestic politics since 1987, however, have brought a greater degree of media freedom. Korea's media democratisation can be largely attributed to President Rho's June Declaration in 1987 which guaranteed the freedom, albeit limited, of the press in Korea. While the degree of state control over television broadcasting since then has weakened, the Korean state still exerts a certain degree

of control over it in an indirect fashion, such as in the form of administrative guidance, in which it seeks broadcasters' cooperation.

State control of television broadcasting in Korea has been mainly exercised by two government ministries: the Ministry of Information and Communication (it was renamed as such in 1998 with the merger of the Ministry of Information and the Ministry of Communication) and the Ministry of Culture and Tourism. There have also been two seemingly independent regulators, KBC (the Korean Broadcasting Commission) and KCCC (the Korean Cable Communications Commission). The KBC was established in 1980 as a mediating agency between the government and broadcasters. The major responsibility of the KBC has been to screen programmes and decide whether broadcasts should be given approval. However, the authority given to the KBC has been very limited. It has no legal power to cancel licences and it has no political independence. This situation has meant that the KBC was placed, in effect, under the control of the government authorities in exercising its supervisory responsibilities over programming content.

Korea is undergoing a major change in the regulatory structure of broadcasting following the introduction of the new Broadcast Law which was passed in the National Assembly in December 1999. The new Broadcast Law consolidates all existing laws relating to broadcasting, namely, the broadcast and cable laws. The proposed law, however, has long been controversial as different interest groups – broadcasters, political parties, citizen groups and regulators – voiced different views in order to reflect better their needs and wishes in the new law. The key issues surrounding the new Broadcast Law included the role and function of the KBC, the composition of its board members, who in the past have been selected by the government and the ruling party, and whether to allow business conglomerates and newspaper companies to operate satellite television broadcasting.

The new Broadcast Law empowers the KBC with broader structural and administrative authority. All types of broadcasting – free-to-air, cable and satellite – are placed under the control of a single regulator, the KBC. The law also empowers the KBC ultimate licensing power, that is, to issue, cancel and renew licences. The law relaxed the restriction on cross-media ownership and foreign ownership by allowing newspaper companies, business conglomerates and foreign investors to own up to 33 per cent of the total share of one satellite broadcasting operator.

MALAYSIA – PHILIP KITLEY

Television broadcasting began in the newly formed Federation of Malaysia on 23 December 1963. As was the case in neighbouring Thailand and Indonesia, the government of the day looked on television in an instrumental way and expected it to play a major role in creating a Malaysian identity amongst the Malay, Chinese and Indian communities, and in building a

nation comprising peninsula Malaya, Singapore, Sarawak and Sabah. There was also a certain amount of national pride involved in the launch. Thailand had established its television service in 1955, Indonesia introduced television in 1962 and Singapore's service went on air on 15 February 1963. For Malaysia, establishing a national television service was a way of keeping up with its neighbours and representing itself as a modern developing nation.

The single channel government service was planned and introduced in a very matter of fact manner, without any broadcasting legislation, as if television broadcasting was just another service that a government was expected to provide. From 16 March 1960, when a cabinet committee was appointed to consider the introduction of television, to 1962, occasional announcements advising parliament that planning for television was in hand were met with apparent indifference, and the character of the system was not debated at all. Malaysia's multi-lingual, pluralist society presented television planners with special challenges, however, and the government looked around the world for television systems that provided multilingual services. Two consultants from the Canadian Broadcasting Commission advised the government in 1962 on establishing a service to be called Radio Television Malaysia (RTM) and proposed that programme hours should be shared by language groups in the ratio of Malay 39 per cent, English 26 per cent, Chinese 26 per cent and Tamil 9 per cent. RTM's black-and-white service was on air for 24 hours per week in 1963, and slowly built to 55 hours per week in 1969 when RTM 2 was introduced with new production and transmission facilities at Wisma TV, Angkasapuri, near Kuala Lumpur. The number of sets registered rose from 28,000 in 1963 to 150,000 in 1969. Set registrations were an important consideration, as licence fees were one source of income for the new service, supplemented by an allocation from the national budget, and, after 1965, with revenue raised from advertising. RTM was administered by the Department of Broadcasting in the Ministry for Information.

Programming in the 1970s was influenced by the National Economic and National Cultural Policies of 1971 which selectively promoted Malay culture and attempted to fast-track the involvement of ethnic Malays in the commercial life of Malaysia. These new emphases were affirmed by changes to the structure of RTM. Channel One was renamed the National Network (now TV1), and prioritised the use of the national language (Bahasa Malaysia) in almost all programmes. RTM Channel Two, renamed as the Second Network (now TV2), catered for programmes using English, Chinese and Tamil. By the late 1970s, audiences were tired of the development communications emphasis of RTM programming and were seeking alternative television imagery. In the south of peninsula Malaysia, residents were able to pick up Singapore and Indonesian programmes with only minor modification to their antennae. More worrying for the government was the unchecked spread of video cassettes which placed entertainment in the hands of viewers and contested the government's restrictive media and cultural policies. These challenges were met with amendments to legislation

to control the distribution of video cassettes (National Film Development Corporation Act, 1981), and the creation of a new, more entertainment-oriented commercial channel TV3 which went on air for Klang Valley audiences on 1 June 1984, and for a nationwide audience on 16 October 1985. TV3 was established to counteract the video 'threat' and help make RTM more competitive and appealing.

Once again, the new service was introduced without any legislative foundation. And unlike most privatisation projects which involve the partial or full sale of equity in government enterprises, privatisation of television involved the addition of a new service rather than the privatisation of existing RTM services. The so-called privatisation of TV3 in no way liberalised the television sector. Government maintained a firm hold on broadcasting policies and programming by awarding the TV3 licence without tender to the Fleet group, the investment arm of the ruling UMNO political party. Nevertheless, the privatisation of TV3, and the small-government, corporatist policies of newly elected prime minister Dr Mahathir Mohamad created major changes in the sector. In 1987, booking of advertising on RTM was privatised as a way of making RTM more profit-oriented and competitive. Malaysia's first broadcasting legislation, the Broadcasting Act #338 of 1988, reorganised RTM as a government corporation with a board of government appointed directors.

In 1995, Metro TV, Malaysia's second commercial channel began broadcasting to an urban audience in the Klang Valley. In the same year, Mega TV, Malaysia's first terrestrial cable service was launched. In 1996, amendments to the 1988 Broadcasting Act made way for the launch of Malaysia's first Measat satellite, and the satellite cable operator Astro began operation. A third terrestrial channel, NTV7, began broadcasting in April 1998. The new commercial services struggled in their first years, coming up against the well-established TV3 and RTM, and the 1997 economic crisis which forced Metro off air in November 1999. Television's share of total advertising expenditure has declined from 47 per cent in 1989 to just 30 per cent in 1999. Newspaper advertising is television's main rival, and accounted for 61 per cent of total advertising in 1999.

In 1991 Prime Minister Mahathir announced that his ambitious development plan Vision 2020 involved a communications and information technology project which became known as the Multimedia Supercorridor (MSC). To take advantage of digital convergence and pave the way for overseas investment in the hub, the forward-looking Multimedia and Communications Act came into force on 1 April 1999, replacing the Broadcasting Act of 1988. The television sector was restructured as just one of a number of communication services in the nascent multimedia environment. Commercial television services were split off from RTM and placed under the regulatory control of the newly established Ministry of Energy, Communications and Multimedia and the Commission for Communications and Multimedia. RTM remained under the control of the Ministry for

Information. In 2000, an inquiry into RTM's status recommended that it be restructured as a government-owned corporation, giving it the freedom to hire and fire and source its own income.

PHILIPPINES – JOSEFINA M.C. SANTOS

In the last few decades, television has grown to be the mass media vehicle covering the widest audience or consumer base in the Philippines. As of 1998, of the total 13.8 million Philippine households, 9.8 million – or 71 per cent – own and use television sets. The rate of television ownership is highest in Metro Manila, the country's premier metropolis, at 96 per cent. But, in the rest of the country, too, most households are owners of television sets. Seventy-three per cent of households in the rest of Luzon (the country's largest island and northern region, where Metro Manila is located) as well as 60 per cent in the Visayas (the middle region) and 63 per cent in Mindanao (the southern region) own television sets.

Widespread television ownership cuts across not only Philippine regions but also social classes. In Metro Manila the rate of ownership is highest among the upper and middle classes – (classes A to C) – at 99.4 per cent. But, even among the poor employees (class D, with monthly incomes ranging from \$174 to \$326), comprising half of the urban population – television ownership is high at 94.8 per cent. Moreover, the majority – 73.8 per cent – of the poorest section of the Metro Manila population (with incomes below \$174 per month) are television set owners.

Of the country's television-owning households, 8.9 million, or 90.8 per cent, watch free-to-air television, while 900,000, or 9.2 per cent, are cable subscribers. The popularity of cable television is growing, especially in the rural areas where television signals are weak. But unlike free-to-air television, only in the AB class (55 per cent in Metro Manila) have most households been able to afford and chosen to subscribe. Even in Metro Manila, only a third of the upper-middle class (class C1, with monthly incomes from \$674 to \$1087) are cable television subscribers. Given the generally low income of television owners, the relatively steep initial payments of \$65 (roughly half of most employees' monthly pay) and monthly amortisations of \$7.60 to \$10.86 discourage most of them from switching to cable. Free-to-air television in the Philippines is mainly geared to local programming, while cable television is oriented towards foreign programming.

The number of both free television stations and cable television networks has been rising rapidly. Free-to-air stations in 1999 numbered 182, up by 42 per cent from 128 in 1996 – a climb of 14 per cent annually. At nearly the same rate, cable networks grew in number at a yearly average rate of 13.3 per cent from 753 in 1996 to 1055 in 1999. In Metro Manila there are seven VHF channels (2, 4, 5, 7, 9, 11 and 13) and six UHF channels (21, 23, 27, 29, 29, 31) broadcasting free-to-air. In addition, there are now over 340 cable

operators nationwide. The six leading television networks reach at least half of the country, with ABS-CBN, the leading network, covering 97 per cent.

Reflecting the rise in popularity of Philippine television is the rapid growth in television advertising. Not only has advertising spending in general surged steadily from \$144.3 million in 1992 to \$364.63 million in 1996 and \$452.91 million in 1998 despite the Asian financial meltdown, it has also been shifting from print to television. Print advertising has dropped from 25 per cent of total advertising expenditure to 14 per cent in 1998, whereas television advertising has advanced from 58 to 63 per cent during the same period. Philippine advertisers find television advertising to be not only the most appealing because of its audio-visual quality but also the most cost-effective, as local marketing research groups confirm.

In spite of the rising number of operators, the economic concentration in both types of television has been intensifying. Increasingly dominating free-to-air television in the Philippines today are ABS-CBN and GMA Broadcasting Corporation. Together, they corner 67.2 per cent of the Metro Manila audience share and 66.7 per cent of the television prime time advertising revenues. Controlled by the Lopez family, the country's most influential clan, ABS-CBN alone owns or operates twenty-six stations and ten affiliations nationwide.

With their dominance in ratings, both ABS-CBN and GMA have been able to command premium advertising rates at least 25 per cent higher than those charged by their competitors. In addition, they have been able to allot eighteen minutes and even more per hour of prime-time airtime to commercials.

The domination of large corporations is even more pronounced in Philippine cable television. Of the 340 cable operators, only two grab the lion's share of the market. Of the 900,000 cable subscribers, some 90 per cent – 813,244 – are subscribers of Skycable/Sun, also owned by the Lopezes, and Home Cable. Home Cable is a subsidiary of the Philippine Long Distance Telephone Company (PLDT), the country's leading telecommunications company.

Unlike in other countries, Philippine cable television is partly advertising-driven for its three leading companies, with Skycable and Home Cable charging advertising rates ranging from a tenth to one-thirtieth of free-to-air rates of ABS-CBN and GMA.

What makes the mass media business in the Philippines peculiar is the fact that all mass media establishments are 100 per cent Filipino-owned and managed, as required by the Philippine constitution. Thus, aside from land, mass media remains the only field of direct investment completely off limits legally to foreigners. It therefore runs against the grain of the policy of trade and investment liberalisation espoused and implemented by the Philippine government in line with World Trade Organization principles.

At the same time, large, foreign, basically non-media and media companies have either shown interest or taken steps in investing in Philippine television production and distribution. Among the most prominent are Star

TV controlled by the Murdoch family of Australia, PLDT itself (which is controlled by Hong Kong-based First Pacific), and according to industry insiders, a number of Chinese firms. For its part, PLDT has already set up a company, Mediaquest, through which it operates a radio network, Nation Broadcasting and Home Cable.

SINGAPORE – DAVID BIRCH AND MARIANNE PHILLIPS

Broadcasting began in Singapore on 1 June 1936 by the British Malaya Broadcasting Corporation, with the first specifically Singaporean broadcast service, Radio Singapore, being heard on 4 January 1959 under the banner of 'Many Cultures – One Voice'. Television began as TV Singapura, on 15 February 1963. This followed several years of discussion initiated in 1956 when a public commission produced a feasibility study on television in Singapore which ruled out private ownership (Shaw Brothers and the Cathay Organisation had both expressed interest) and later in 1961 recommended two channels running in four languages: English, Chinese, Malay and Tamil. Following the first broadcast, television consisted initially of one ninety-minute schedule on one channel (Channel 5) viewed in fifty community viewing centres especially set up to receive television, with one in every twelve homes already owning a Japanese imported television set ready for transmission to begin (McDaniel 1994:71).

Channel 5 developed into a six-hour service on weekdays and a ten-and-a-half hours service on weekends and public holidays, and then over the years substantially increased its offerings. A second channel (Channel 8) began operations in November 1963, beginning with an initial three-and-a-half hours service and, like Channel 5, growing over the years. Both channels initially operated out of converted garages as Radio Television Singapore (RTS), a fully-fledged government agency, and governed from 1963 to 1980 by the Broadcasting and Television Act of 1963. The content, according to a later Singapore Broadcasting Corporation Report, 'projected what the government was doing for the people in terms of employment, social services, health and education' (McDaniel 1994:72).

A separate educational television service was started in 1967, operating initially as Singapore Educational TV Service (ETV) and later as Media Service, offering programmes to schools and colleges; in 1980 it came under the control of the Department of Educational Technology in the Curriculum Development Institute of Singapore. Colour television began in 1974.

In 1980, with the passing of the 1979 Singapore Broadcasting Corporation Act, RTS was replaced with the Singapore Broadcasting Corporation (SBC), no longer a direct government agency but a statutory body with the bulk of its income now having to come from licence fees and advertising, not government.

In 1984 a third channel (Channel 12) was added, initially concentrating on arts and culture, but, given low audience ratings, expanded into sport and

films from 1985 onwards. This channel was eventually separated into two, Prime 12 and Premiere 12, designed to offer public service and minority language programming. In 1994 the ownership and management of these two channels was restructured into a government-owned company, TV12. This was later replaced with Suria (Malay) and Central (Indian) in January 2000. Channels 5 (English) and 8 (Chinese) were then brought under another wholly government-owned company, the Television Corporation of Singapore (TCS). All local television (and most of the radio channels) eventually came under the control of the Media Corporation of Singapore (MediaCorp), itself owned by the government holding company Temasek Holdings.

Earlier, in April 1992, Singapore CableVision (SCV) a subsidiary of SBC, began operations as a pay-television service, offering a number of channels – not by cable, as might be expected, but by using low-power UHF transmitters. Later, in 1995, a fifty-channel capacity cable television service was developed by Singapore Cable Vision Limited. SCV then joined forces with Singapore One, launching a pilot programme on cable modem service in June 1997. By 2000, all households in Singapore were wired for cable as part of Singapore's push along the Information Superhighway route. The cable can carry interactive and multimedia services.

All broadcasting in Singapore, including commercial cable television and the Internet is regulated by the Singapore Broadcasting Authority. Censorship, apart from news programmes, is still strict, but in recent years has relaxed. Channel NewsAsia was launched in March 1999 to provide 'an Asian perspective of the news for an Asian audience'. TCS's Sports City was launched in January 2000 to provide a free-to-air alternative to the cable sports, but was relaunched as CityTV in May 2001, and channels from Malaysia, particularly RTM2, and the more limited RTM3, can be received in Singapore.

On 1 January 1994 the Singapore International Television project (SITV) was launched. This was an hour of made-in-Singapore programmes which were beamed nightly via Indonesia's Palapa B2P satellite to an area stretching from northern Australia to southern China and from Papua New Guinea to the Maldives. The Singapore International Foundation project aimed mostly at Singaporeans abroad was to maintain contact with expatriates and send a little of Singapore out into the world to develop a greater global mindset and to foster goodwill with other countries.

Following a review of media in Singapore in 2000, two new channels were launched in 2001, Channel U and TV Works, which are owned and managed by SPH MediaWorks Limited, one of the Singapore Press Holdings Group subsidiaries. These were followed by another new channel, City TV. Bus commuters are now able to watch a new digital television channel run by MediaCorp, and there are plans for this to be expanded to the MRT, the mass rapid transport train system of Singapore.

Television has grown and diversified rapidly in the last thirty years in Singapore, and there are now over twenty production companies in

Singapore producing local television programmes, covering the 25–30 per cent local-content requirement for Singapore television.

Eight free-to-air Television channels now listed in the daily newspaper, the *Straits Times* (2001). They are:

TV Works (English)
NewsAsia (English)
Channel 5 (English)
Channel 8 (Chinese)
City TV (Chinese)
Channel U (Chinese)
Suria (Malay)
Central (Indian)

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THAILAND – GLEN LEWIS

As the only Southeast Asian state never directly colonised, Thailand has always kept a firm hand on the media. Thai broadcasting officials emphasised three things: the media's role in development and national unity; direct supervision by regulators; and that programmes should editorially complement government policies.

Television began in Thailand in 1955 on what was then the national day, 24 June. Yet its reach outside of Bangkok was limited until the late 1970s. The agency administering broadcasting was MCOT, the Mass Communication Organisation of Thailand (*Or sor mor tor*), a state enterprise created in 1977. MCOT owned the first station, Channel 9, and still operates it. The RTA (Royal Thai Army) owns two more of the broadcasters, Channel 5 (1958), which it also operates, and Channel 7, which it leased to the Bangkok Broadcasting and Television Company (BB&T) in 1967. MCOT began Channel 3 in 1970, but leased it to Bangkok Entertainment Limited (BEC) in 1970.

Thus the Army or the state own all the major broadcasters, except iTV, yet the market leaders (Channels 7 and 3) are operated privately. Under the policy of privileged private concessions that prevailed between 1967 – 87, private family companies leased those channels from the Army and the MCOT. As the licences were held for extremely long periods (twenty-five years) there was no serious challenge to their dominance. The Bangkok Bank and the Krungsriyuthaya Bank financed the Maleenont family's Channel 3 and the Kanasutra family's Channel 7, respectively. There is no Thai public broadcasting sector in the Western sense. The industry is state-

owned, yet largely privately operated. Western notions of 'the public interest' or 'public broadcasting' therefore make only limited local sense.

The period of privileged private concessions included the years of the Vietnam war, 1967–74, and the beginnings of the Thai economic boom from the mid-1980s. State broadcasting at this time took a strongly nationalist line, though radio was used more often than television in delivering anti-communist propaganda. The most commercially successful network and the first to broadcast in colour in 1967 was the Bangkok Broadcasting's Channel 7, leased first from 1967 to 1982, then from 1983 to 1995. The 7 group was also the first to begin national satellite broadcasting in 1980 using Intelsat and Palapa.

The foundation Radio and Television Broadcasting Acts of 1955 and 1959, and later the Broadcasting Regulations of 1974, stressed the need for national development. The 1955 Act specified that the state could supervise all programme content. The royal family, the nation, and the Buddhist religion were made legally immune from criticism in broadcasting, and an ideology of 'Being Thai' was promoted. Although concerns were expressed about the dominance of foreign programming in the early years – for example in 1970 only 50 per cent of programmes were locally made – most are now locally produced. In 1991 just 14 per cent of programmes were imported.

The dominance of the Thai language was the most effective cultural screen against foreign penetration. All free-to-air programmes are broadcast in Thai, and the relatively few Chinese, Western and Japanese programmes are dubbed in Thai; the much larger amount of foreign programmes on Pay-TV are either dubbed or sub-titled in Thai, except for the English language channels. An emphasis on correct speech is an enduring theme in Thai culture. Programme producers and presenters are required to be of Thai nationality, and hosts must hold a certificate for announcers issued by the PRD (Public Relations Department). While the MCOT is a state enterprise with its own Board of Directors, the PRD is a state agency.

The economic boom in the late 1980s, and the firm hold of the state on programming, gave the Thais enough confidence to declare an 'open skies' policy on private satellite dish ownership in 1993. The television landscape then began to diversify significantly. Twenty-four hour broadcasting was allowed after 1994 and commercial broadcasting became immensely profitable. Pay-TV was introduced, first by Shinawatra's IBC company in 1989, followed by ThaiSky in 1991, then UTV in 1995. The Shinawatra group, also owner of the leading cell-phone company AIS, won the right from the MCOT to launch the first national communications satellites (Thaicom 1, 1993, 2 in 1994, 3 in 1996 and 4 planned for 2006). A state educational channel, Channel 11, also began in 1987 with NHK support to link several regional stations built by the PRD in 1962.

The seminal events in the 1990s for television were the 'Bloody May' confrontation in 1992 and the new liberal Constitution in 1997. Local television stations censored the violent 1992 confrontation between reformers and the Army in Bangkok, so the new Anand administration promised a channel

that would not be owned by the state. This promise was finally fulfilled in 1996 with the creation of iTV (Independent Television).

Hopes for broadcasting reform, however, were dashed by the financial crisis in July 1997. Although the new Constitution was passed in October of the same year, and contained several clauses promising media freedom, the economic recession created irresistible pressures towards media concentration. ThaiSky Pay-TV was bankrupted, and mounting losses for the remaining rivals, IBC and UTV, led to their merger in 1998. Though iTV quickly established a reputation for critical journalism, it was also affected by the recession. Mounting losses forced its principal shareholder, the Siam Commercial Bank, to sell 41 per cent of its shares to the Shinawatra group in April 2000.

The loss of iTV to a media monopoly could not have come at a worse time for media reformers. Thaksin Shinawatra had by this time formed his own political party, *Thai-Rak-Thai*, which swept the polls in the January 2001 elections. Thaksin became Prime Minister despite protests about his takeover of iTV, which retains considerable importance as a symbol of a freer approach to the role of the media. It remains to be seen how media reformers will deal with the new government. The Army's traditional control over Thai television has now been partly replaced by that of private monopolies.

Part II

Regulation and transversal civil society in Southeast Asia and Australia

1 Television, media reform and civil society in 'Amazing Thailand'

Glen Lewis

The reform of media regulation can be read as part of the wider movement towards democratisation in Thailand in the 1990s. Real progress was made in media reform, yet as the traditional control of the Army has been reduced, the power of commercial media monopolies has grown. The main threat to further media liberalisation is now the growth of private monopolies. This was exemplified by the election of Thaksin Shinawatra in January 2001, as he is a media magnate on an international scale comparable with Italy's Silvio Berlusconi. Both men have used their communications business as a path to political power. The first part of this chapter will summarise Thai ideas about civil society, television regulation and the political context of media reform, followed by an analysis of how civil society issues are represented on Thai TV. Broadly, there are urban news and current affairs programmes of an investigative nature, and then there are rural-oriented programmes featuring community participation, notably *Lan Ban Lan Muang*. Finally, the prospects for media regulation since Thaksin's election will be considered. The progress towards media reform made in the second half of the 1990s has since stalled under Thaksin's new government.

The meanings of 'civil society' in Thailand

Civil society became topical in international discussions in the 1990s with the collapse of communism in Eastern Europe, and political reforms in Northeast Asia, as in South Korea and Taiwan (Keane 1998; Han 1987). How did Thai reform debates connect with these? Thai debates about civil society are grounded in reform Buddhism, rural development and, especially since 1997, in the ideal of community self-reliance (Keyes 1999). The Thai term for civil society (*pracha sankom*) did not come into wide usage until the second half of the 1990s, but earlier democratisation movements can be traced back to the early 1970s. In 1973 a Thai counterpart of what would later be called 'people power' in the Philippines overthrew the authoritarian Thanom government, only to be savaged by a return military coup in 1976. However, reformers such as Prawase Wasi, Jon Ungphakorn and Sulak Sivaraksa then developed a new model of pro-democratic non-government

organisations (NGOs), such as the *Komol Keemthong Foundation*, in contrast to existing conservative associations such as the YWCA and the Women's Council of Thailand (Sulak 1985: 314).

In the 1980s an unprecedented economic boom (1984–94) reduced the Army's influence and strengthened the middle classes. Ukrist (2001) argues that the role of the state then changed to allow the private sector more room to collaborate with NGOs. This created a public space in which civil society could grow. While Unger (1998) claims that Thai society, except for the Sino-Thais, has lacked the social capital necessary to develop strong associational networks, if we take Pasuk's (1999: 19) definition of 'civil society' as forms of socio-political activity outside government, then NGOs have clearly become the main agents for civil society's growth (Callahan 1998: 111). They have led opposition to environmentally harmful 'big bang' development projects, such as the Yadana gas pipeline between Myanmar and Thailand (Dayley 1996; Chang Noi 2000b). Ukrist (2001: 33) also argues that, compared to the Philippines and Indonesia, Thai NGOs depend less on foreign funding. Co-option, however, remains a problem because of the NGOs' links with government (Nantiya 1999). Ji Ungpakorn (2000) also considers that the aim of civil society advocates is to stabilise the political process, rather than reinforce citizens' rights. Paul Lee, in chapter 8, argues that the same is true for Hong Kong.

Thai debates about 'civil society' are therefore relatively new and mainly involve social reform groups (Hewison and Rodan 1996). There are more than two hundred NGOs (Gohlert 1991). Many such as NGO-CORD, the National Coordinating Committee of NGOs for Rural Development since 1985 and the Thai Environment and Development Network work on rural improvement and environmental protection (Amara 1995). Activists such as Apichart Thongyu and Bamrung Bunpanya and scholars Kanchana Kaewthep and Chatthip Nartsupha (1999) have advocated community development based on indigenous culture, folk wisdom and traditional technologies (Pasuk and Baker 1995: 384). There are also professional networks for urban reconstruction since 1996 such as Civicnet, and annual civic forums now take place in Bangkok, Korat and Songkhla. Many women's groups exist, such as Empower, concerned with sex workers' rights (Odzer 1994) and with women's rights generally, such as the Women and Constitution Network (Darunee and Pandey 1991). There is also a network of Northern NGOs against AIDS and several Buddhist reform groups, such as Santikaro Bhikko's in Nakhon Ratchasima. Lastly, a Mass Media Network for Civic Society was formed in June 1997 (Kritaya and Puangsamlee 1999). Several media scholars are active in NGO campaigns, notably Ubonrat Siriyuvasak, who believes that the Bangkok middle classes have only a qualified commitment to democracy (Ubonrat 2000).

More extended debates about civil society took place after the 1997 financial crisis. As Anek Laothamatas, a supporter of local government decentralisation, commented (1997), civil society is based on social capital

that constantly needs to be re-invented. Or, as Chaiwat Thirapanthu (1999), of Civicnet argues, civil society is the daily life of the people outside of government and business. He prefers the term 'wisdom of the people' (*pumpanya*) to the notion of 'civic society'. As Chaiwat suggests, the Thai version of civil society differs from Western ones. It has a Buddhist underpinning and focuses mostly on rural reform. Yet, despite the wider use of the term 'civil society', there is often disagreement over what this means. For instance, at one meeting for 'good governance' (*dhammarat* – a term publicised by Thirayut Boonmee), a leading environmentalist, Dr Suthawan Sathirathai, queried what 'participation' meant: 'It's a new concept. It's been imported from the West and even the translation is clumsy (*kan mi suan ruam*). There's no tradition or culture of public participation in big decisions' (*The Nation* 28 March 2000: A5). Similarly, writing just before the 1997 crisis, Suchit Bongbongkarn warned that there remained a wide gap between NGOs and student reformers, the middle classes and the political parties. The urban middle classes, conservatives and government officials did not share the commitment of NGOs to slum dwellers and the rural poor (Suchit 1996: 101).

What remains lacking in the Thai version of civil society is a strong labour movement as exists in South Korea. Thai labour laws and rights are weak and many unions are in-house or state enterprise unions (Schmidt 1997). Only 200,000 workers are unionised, or just over 2 per cent of the non-agricultural working class of ten million (*The Nation* 30 April 2000:1). A military government revised the State Enterprise Labor Relations Act in 1991 to restrict state employee's rights. All government workers are denied the right to strike. Strikes are also banned at universities and only three have unions (*The Nation* 30 April 2000:1). Although there have been some moves to liberalise the labour laws since 1998, this has not yet happened (USSD Section 6 2000). There is also a non-unionised seasonal reserve army of labour made up of some 200,000 Burmese and Cambodians. This fundamental weakness in the Thai polity needs to be balanced against either the utopian moral claims made for civil society by Dr Prawase Wasi, and even the hopes of its more pragmatic supporters, such as scholars Pasuk Phongpaichat, Chris Baker and Ukrist Pathmanand. As Hewison (2000) argues, the promotion of populist localism by NGOs and other reformers may not be a viable long-term alternative to capitalist globalisation.

The politics of media regulation and democratisation

The foundation legislation for television was the 1955 Radio and Television Broadcasting Act. This required the licensing of all broadcasting by government officials. The rationale was to ensure that broadcasters would have adequate technical and financial resources, and that programming should reflect the nation's core values. The agency responsible for administering broadcasting regulations was the Mass Communication Organisation of

Thailand (*Or sor mor tor*), a state enterprise created in 1977 formerly known as *Tor tor tor*. The MCOT owned the first station, Channel 9, established in 1955, and still operates it. It also began Channel 3 in 1970, but under the new policies of privileged private concessions between 1967–87 leased Channel 3 to Bangkok Entertainment Ltd (BEC). The RTA (Royal Thai Army) owns two more of the major broadcasters, with its Channel 5 (1958), which it also operates, and Channel 7 (1967), which it leases to the Bangkok Broadcasting and Television Company (BB&T). The 1977 legislation for MCOT stated that the Prime Minister and the Minister for Communications had the right to appoint or dismiss its director (Chalinee 1999). MCOT is responsible for television policy development; the Public Relations Department (PRD) is more active in radio. In 1962, however, the PRD built a number of regional television stations in the larger provincial cities and in 1987, with Japanese aid, began Channel 11 to link these nationally. Channel 11 mainly has an educational role and low ratings. The PRD is within the Prime Minister's Office and until 1993 produced all radio news services. It is a state agency, not a state enterprise, and therefore is under direct government control. It oversees Pay-TV and supervises Radio Thailand and the Thai National News Agency.

In addition to the controls exercised by the MCOT (mainly policy) and the PRD (mainly programme content), and the Post and Telegraph Department's (PTD) management of frequency regulation, there was yet another level of regulation. In 1974 a civilian government created the NBEB (National Broadcasting Executive Board) to license and monitor transmission and programming. It became the main censorship body for programme content (Ubonrat 1997: 60). In 1976, Decrees No.15 and 17 compelled all radio and TV stations to transmit state news and imposed strict conditions on programme content. The national anthem was to be broadcast twice daily and television advertising time limited to ten minutes per hour. Between 1977 and 1994 all television news programmes had to be screened at 8pm daily. The Anand government revoked these decrees in 1992; however, the National Broadcasting Commission (NBC) that then replaced the NBEB could override the MCOT and the PRD. Although the NBC for the first time made provision for some public interest representation, it also had a charter to censor and direct programme content. Neither the MCOT nor the PRD were on the NBC, though the MCOT was indirectly represented through the Prime Minister, the Deputy Prime Minister, or their delegates. The PRD was responsible for the NBC's administrative work. This combination of different departments reflected the interests that controlled broadcasting. The military remained represented, as did the juridical powers through the Council of State, technical supervisory interests through the PTD, rural affairs through Local Administration, and the agency responsible for implementing cultural policy, the National Culture Commission (Regulation on Broadcasting 1992: 76–7).

The NBC could impose conditions about the establishment and removal of stations and prescribe rules to supervise programmes and advertisements.

It could make recommendations on frequency regulations as well as rules about technical specifications and could also consider complaints about broadcasting. In addition, there was the usual nationalist emphasis on preserving Thai cultural identity. Station directors had to be of Thai nationality, and all broadcasting was required to be in Thai with a few exceptions – foreign language songs, interviews, or film sound tracks. Television advertising was kept at ten minutes per hour, and all programme schedules had to be supplied in advance to the NBC (Clauses 23, 31 and 20, 1992). This emphasis on moral and nationalist control was restated in the 1994 Regulation on Broadcasting No. 14 by the first Chuan government. This authorised programme censorship on a number of grounds, including offences against public order or good morals (Vitit 1998: 47). The detailed regulation of moral standards through the supervision of programmes and commercials is worth noting, as the stereotype of Thailand as a land of sexual freedom is extremely misleading about normal Thai standards (Askew 1999). Programme producers and presenters were required to be of Thai nationality, and hosts were required to hold a certificate for announcers issued by the PRD. This emphasis on correct speech is an enduring theme in Thai broadcasting culture (Lewis and Hirano 2000: 215).

The political context of media reform in the 1990s requires explanation. A Democrat government was elected in 1992, then replaced by the ministries of Banharn Silpa-archa (July 1995) and Chavalit Yongchaiyudh (November 1996). Their administrations were discredited by corruption scandals and the 1997 currency crisis, so financial management took first place when Chuan's Democrats were returned in November 1997. However, a new Constitution promising extensive reform had been passed in October 1997 and several clauses promised media liberalisation. These will be explained below. King Bhumiphol, in his annual address to the nation in December 1997, had also called for sustainable development in response to the crisis, and many reformers endorsed his view. The desire for sustainability appealed to Thai nationalism and reinforced the anti-IMF and anti-globalisation critics of the Chuan government (Bello *et al.* 1998).

Until the 2001 election the dominant political party was the Democrats, led by Chuan Leekpai. Their main coalition partner was Chart Thai, led by Banharn, one of the most successful and venal senior politicians, while Chavalit led the New Aspiration Party in opposition. These parties, with the Social Action Party, Chart Pattana and Palang Dharma earlier in the decade, were the main 1990s players. Thai politics concerns personalities and patronage rather than ideology, though the Democrats have been more distanced from the military (Pasuk and Baker 1995: 340–64). The Democrats base is in the South and in Bangkok, while the other main two parties rely on country voters, especially in the Centre (Chart Thai) and the Northeast (New Aspiration). In the 6 January 2001 election, however, the newest party – Thaksin's '*Thai-Rak-Thai*' (Thai Loves Thai) swept the board, then included Chart Thai and New Aspiration in a coalition.

Chavalit came back as Defence Minister. All large parties have close links with big business (Backman 1999: 314–20).

The two key events punctuating the course of Thai democratisation and media reform in the 1990s were ‘Bloody May’ in 1992 and the new Constitution in 1997. In 1992 international television and the local press exposed the military savaging the Bangkok crowds who were disputing General Suchinda’s attempted coup. Television viewers saw the unprecedented sight of King Bhumiphol ending the conflict by calling before him Suchinda and the pro-democracy leader Chamlong Srimuang (McCargo 2000). Both men crawled towards the King to demonstrate their obedience. When an interim administration led by Anand Payarachun was installed, it promised significant media reforms, especially in television. Local channels had not shown the violence used by the authorities, though video copies of CNN and BBC coverage were circulated widely. Eventually in 1996, iTV (Independent Television) was created as the first non-state owned channel.

Thai broadcasting policy has been marked by constant in-fighting among the regulators and their alliances with different media groups. The saddest example here was the murder of Saengchi Sunthornwat, who in 1993 became Director of MCOT, the principal broadcasting regulatory agency. Saengchi was one of the first to uphold public interest issues in media

Table 1.1 Thai television history at a glance

<i>Date established</i>	<i>Licensee/operator</i>	<i>Financier</i>
Channel 9 – 1955	MCOT/MCOT	Krung Thai Bank
Channel 5 – 1958	Army/Army	Thai Military Bank
Channel 7 – 1967	Army/BB&T	Bank of Sri Ayudhaya
Channel 3 – 1970	MCOT/BEC	Bangkok Bank
Channel 11 – 1987	PRD/PRD	Government
iTV – 1996	Prime Minister’s Office/Siam Infotainment	Siam Commercial Bank
IBC (Pay TV) 1991	MCOT/MCOT	Shinawatra
UTV(PayTV) 1995	MCOT/MCOT	Telecom Asia
UBC merger 1998		TA/MIH

Note: Technical: Colour television 1967; Satellite relay (INTELSAT/Palapa) 1980; Thaicom 1 satellite 1993; twenty-four hour broadcasting 1994; Thaicom 2 1994; Thaicom 3 1996; Channel 5’s Global Network Service 1998.

regulation. He improved public affairs programming on government Channel 9 and the accountability of MCOT, which had a reputation for being 'the twilight zone' – an agency that money mysteriously disappeared into (*The Nation* 3 January 1995). Saengchi allied MCOT with the telecom companies Telecom Asia and UCOM against Shinawatra in planning a pan-Asian television service using the Apstar satellite instead of Shinawatra's Thaicom. By this time, Thaksin Shinawatra was on the way to being Thailand's telecom king. He had his Advanced Information Services cell-phone company, IBC Pay-TV and the Thaicom satellites. Thaksin fought Saengchi's proposal until he was reprieved by the failure of the Apstar launch in February 1995. Saengchi's bid to end corruption in the MCOT, however, was succeeding until he was shot and killed in April 1995 by an assassin (*Bangkok Post*, 10 August 1996).

The political sensitivity of television news and current affairs has made censorship a regular occurrence. Thai news broadcasts traditionally did little more than repeat government viewpoints in a hierarchical manner. However, in 1987 Somkiat Onwimol introduced more hard-hitting coverage on Channel 9 modelled on American lines. His production company, Pacific Intercommunications, worked successfully at Channel 9 for two years. Although Somkiat was later criticised for pro-government bias in his *Jor Sor Roi* radio broadcasts in May 1992 (*Bangkok Post*, 10 June 1996), his enduring contribution was to break with the conventions of Thai TV news presentation (Pasuk and Baker 1995: 373).

Press freedom became contentious again during Banharn's ministry (McCargo 1996). The media was distracted from the imminent financial crisis by a protracted struggle with Banharn in September 1996. His critics accused him of plagiarising his Master's thesis, though this was only part of wider criticism of his ministry's corruption – Banharn was nicknamed 'the walking ATM' (Chang Noi 2000a). Government reprisals caused the dismissal of five *Siam Post* news editors (*Bangkok Post*, 3 September 1996). Banharn also pressured Army TV Channel 5 to replace its news chief and had Chirmsak Pinthong – heir-apparent to Somkiat as the nation's best tele-journalist – removed from the Channel 11 programme *Mong Tang Moom* (*From Different Perspectives*) for bluntly questioning him about which *jao por* (rural godfathers) would be in his ministry. Banharn resigned soon after (*Bangkok Post*, 14 September 1996).

Chavalit sought to pre-empt such criticism by creating a Media Monitoring Centre in June 1997. The dailies *Thai Post* and *Naew Na* were the main targets, while other leading Thai-language papers such as *Thai Rath*, the *Daily News* and *Matichon* were also threatened. However, the Centre, run by NAP hit-man Chalerm Yubamrung, was comically disorganised, and had less impact on journalists than the economic crisis. By October 1997 some 1,000 journalists were unemployed and a relief programme was organised by their former colleagues. Journalists whose jobs were at risk were much more vulnerable to being manipulated through *kha-kanom*

(bribery). One response to Chavalit's attempts at press control was the formation of the National Press Council, a self-regulatory body run by journalists to enforce a code of conduct (Kavi 2000). Further, some, such as the still vocal Somkiat, argued for cross-media ownership rules to prevent media monopolies (*The Nation*, 4 January 1997).

At this point, the implementation of the Constitution became the central concern of reformers. Vitit (1998: 40) describes the new Constitution of October 1997 as 'the most participatory of Thailand's 16 Constitutions since 1932'. A ninety-nine member Drafting Committee was elected independently of existing Assembly members. New governance mechanisms, such as an Election Commission (*Kor kor tor*), were created to overcome vote buying (*seu siang*). The amount spent on this in the 1995 election was estimated as Bt 17 billion (Callahan and McCargo 1996). There was also a National Counter Corruption Commission (*Por por chor*) along the lines of Hong Kong and Australia's ICAC, an Official Information Act to apply freedom of information policies to government agencies, a Constitutional Court and a Human Rights Commission.

Reformers seemed to be making headway when a National Broadcasting Commission was approved in August 1998. This would issue radio and television licences and make broadcasting rules and regulations. Article 40 of the Constitution said all radio and television stations must be supervised by an independent agency, though Channels 5 and 7 would remain under military control (*Bangkok Post*, 3 July and 28 August 1998). The key communications sections are Articles 39–41 (*Constitution* 1998). Briefly, 39 prohibits governments from closing media outlets except in time of war, 40 states that the frequency bands for broadcasting and telecommunications are communication resources in the public domain, and 41 declares that media employees should not be controlled by the state or by media owners (Vitit 1998: 43). Somkiat Onwimon, as a member of the Constitution Drafting Committee, said Article 40 aimed to establish a new agency to allow fair use of radio frequencies for all the people (*The Nation*, 8 April 1999).

Yet different interpretations of the Articles were possible. Though the system was to be finalised by October 2000, it remained incomplete in late-2002. Dissatisfaction with the Pay-TV company UBC's price-hikes, the Army's intransigent media role, and support for freer journalism, had combined to revive the reform climate in 1999. Several front-page stories urged media reform (for example, *The Nation*, 26 February 1999; *Bangkok Post*, 6 April and 16 May 1999). The PTD and the Army wanted one regulator, while the Council of State argued for separate broadcasting and telecoms committees with one regulator. The reformers – the Council of the Mass Communication Faculty Members of Thailand, a committee of NGOs and Civil Liberties groups called 'The Voice of the Voiceless', and the Monitoring Group on Article 40 – wanted two committees to ensure attention to public interest concerns. They feared that a combined regulator

would subordinate the cultural policy issues in broadcasting to the technical concerns of the telecommunications industry.

There will now be a National Broadcasting Commission and a National Telecommunications Commission, each with seven commissioners. The NBC will draft a master plan for broadcasting in five areas – education, religion, art and culture, national security and agriculture. 20 per cent of frequencies are for public use, 40 per cent for state agencies and 40 per cent for business. Both commissions will be appointed for six years by the Senate from nominees named by a selection committee of media academics, government agencies, media associations and consumer groups (four representatives each) (*The Nation* 15 February 2000). Two big loopholes were that existing contracts could not be affected and no provisions were provided against cross-media ownership (*The Bangkok Post* 23 September and 7, 9 October 1999). Ubonrat also considered the government favoured the free market principles advocated by telecom proprietors (1999: 11). Heated negotiations between media owners, the state agencies and reformers continued into 2001 (*The Nation* 21, 25 March, 26 April 2000).

The campaign for media reform was clouded as time went by. Interminable delays took place in appointing the NBC and NTC. A flood of candidates applied for both, with frequent interventions by the judicial authority the Council of State and the Prime Minister's Office powerful broadcasting Minister, Supatra Masdit, over questions of eligibility. The final short list was top-heavy with former officials from the MCOT, the PRD, the existing Channels and the Army, with officials from security agencies prominent in the NTC (*The Nation*, 23 January 2001). Television and radio owners, notably Pracha Maleenont of Channel 3, and production houses such as Grammy and JSL, used their popular entertainers to launch a counter-campaign against the NBC. In September 2000 they organised a public rally of TV executives, operators, stars, hosts and pop singers to oppose its formation. They claimed the reform would only benefit the NGOs – who were accused of making a living out of activism – and the *Bangkok Post* and *Nation* newspaper groups, that wanted to enter broadcasting business for their own benefit (*The Nation*, 15 September 2000).

The enthusiasm for media reform was declining. Radio host and political activist Charnvit Ararmith, dismayed by the protracted wrangling, said he no longer had high expectations about Article 40 (*The Nation*, 26 September 2000). 'The Thai media is in a pathetic condition', complained Kavi of *The Nation* a month later, 'both the powers that be and media proprietors are acting like a bunch of thugs' (*The Nation*, 2 October 2000). Anand Payarachun, whose ministry had first promised independent broadcasting in 1992, was defeated in an election to be the NBC's selection committee chairman by a conservative candidate (*The Nation*, 11 October 2000). Chantira Chainam, a radio producer, said broadcasting reform was finished: 'the root of the reform was rotten from the start, just look at the dirty

process of the NBC's selection' (*The Nation*, 13 November 2000). Her pessimism seemed borne out with Thaksin's election by a landslide on 6 January 2001, despite his April 2000 takeover of iTV. The implications of his victory for media reform will be commented on later. Next, however, the ways in which Thai television reflected civic society issues in the 1990s will be considered.

Civil society on Thai television

Television is important in Thai politics because of its high degree of household penetration (94 per cent, *The Nation*, 14 Jan 1999). Television also gets the lion's share of advertising: Bt 7,525 million or 68 per cent in 1999, as against newspapers' Bt 1,655 million and radio's Bt 1,050 million (*Bangkok Post*, 15 April 2000: 8). Yet, precisely because of its mainstream nature it is not as open to a diversity of viewpoints as radio and the press. There are several magazines, for instance, that support NGO concerns, such as the bi-annual *Thai Development Newsletter*. Television has no real counterparts. Rather, two imperatives guide the 'flow' of Thai TV programming (Williams 1974). The first is the use of broadcasting to promote national unity, especially in news and current affairs. The second is the strong commercial emphasis on all channels, except for Channel 11. However, there is a contradiction between the expression of national unity and consumerism, and real tension exists between the two.

National orthodoxy on television is most visible in the royal family news in the last ten minutes of every nightly news bulletin. Regular patriotic homilies about the King's life and royal development projects appear as well in many specials and programme breaks, mainly on Channels 11 and 5, and in live telecasts of ceremonial occasions such as the Ploughing Ceremony at Sanam Luang, and the King's birthday on all channels during the year. Thais stand to attention for the national anthem at the cinema, which is also played on radio and television twice daily at 8 am and 6 pm. The cinema anthems are high-budget productions that draw on the treasure-trove of images that have charted King Bumiphol's life since his accession in 1946. His family history is shown as the history of the nation (Hewison 1997). One of the most common images shows the King with a 35mm camera around his neck, signalling his creative interests and enthusiasm for modern technology. The remarkable symbolic power attached to the King in the media connects with the daily experience of the people, who usually have large portraits of the King and royal family members, especially Princess Sirindhorn, in their homes.

However there is no simple equation of the government with the King's authority. Thais are often very critical of their own politicians. What is more important is the social hierarchy that remains strong in Thai public life, where figures of authority – senior politicians, *ajarns* (academics), monks, or generals – are shown great public respect (Mulder 1994). There is a strong

formal dress code in elite society, and most government members wear uniforms – for the civil service, the police, or the armed forces – dripping with medals. So television news and current affairs often just repeats official views. Thai politicians prefer doorstep interviews, rather than formal press conferences, where they are seen nightly on news bulletins surrounded by reporters, muttering a few sage sound bites. There is no press gallery and few of the junior reporters covering routine politics have the courage to ask hard questions (Chalinee 1999). This is not to say that there is no critical political reporting on television. For example, iTV features *Sarakhan* (*Sensible Humour*), a five-minute evening political lampoon by Kritsana Chaiyarat, delivered in a rollickingly savage Mr Bean style. The daily papers also carry biting cartoons, which are shown on weekday mornings in *iTV News Talk*. However, extended analysis is most likely in discussion programmes hosted by senior journalists, not in the nightly news.

The main counter-current to the ritualistic reporting of royalty and the acceptance of official views in the news is the rampant consumerism in entertainment programming and advertising (Lewis 1998). The leading broadcasters are *Chong Jet* (Channel 7) and *Chong Sam* (Channel 3), the oldest commercial channels. Their top programmes are game shows, urban soaps (*nam nao*, or ‘muddy waters’), historical melodramas, youth rock concerts and *luk thung* (country music), Chinese historical melodramas from Hong Kong and American movies. In 1997, 70 per cent of Channel 3’s prime time ad revenues came from its soaps (*Bangkok Post*, 16 April 1997). Sport is also central in entertainment programming. There are some culturally unique features of these soaps and melodramas concerning family values that are relevant to understanding Thai social values, and therefore civil society (Kanchana 1993). However, most rework traditional stories, myths and novels. Conventional family roles are replayed and the main interest is the actors’ performance rather than the storyline. However, some present the image of women challenging traditional values. In *Jintapatee*, a 1997 Channel 3 series, the leading young woman gave her career equal emphasis with her love life. She was presented as a model young professional woman, independent though not feminist, computer literate and politically aware (Lewis and Hirano 2000: 211).

Where then are the programmes with real life discussions about Thai civil society? They occupy a relatively minor place in prime time, except on Friday evenings, yet there are a significant number screened at other times. Following Pasuk’s distinction between urban and rural-centred reformers (1999: 16), these can be divided up into programmes with an urban or a rural focus. The programmes with an urban orientation are mainly on iTV and Channel 9. These include iTV’s *Tod Rahad*, iTV nightly news, *iTV News Talk*, and *Face-to-Face*, while 9’s leading programmes are *Nation Newstalk*, *Lan Ban Lan Muang*, and *Khor Kid Duay Khon*. Channel 9 is the MCOT channel, which also carries some Nation Multimedia programmes, such as Tuesday evening’s *Nation Newstalk*. Of all the channels, Channel 9 has more

programmes that crossover urban and rural concerns. In 1999, for instance, 9's *Ruam Kit, Ruam Tam* (Think Together, Do Together) with Nitinart Sinthudejja analysed civil service corruption. Though this topic affects rural Thais as well as Bangkokians, the focus was on the central bureaucracy. Channel 9 also features the outstanding civic affairs programme on Thai television, *Lan Ban Lan Muang* (Village Platform, City Platform), hosted by Chirmsak Pinthong.

After 1996, iTV established itself as the most independent-minded channel. This was partly due to its links with the Nation group, who also publish the Thai-language daily *Krungthep Thurakit*. Suthachai Yoon, a senior editor of *The Nation*, and his younger brother Thepchai Yong, were involved with iTV from its beginning. iTV's contract with the Prime Minister's Office required it to have a 70:30 ratio of news to entertainment programmes, though management conflicts since 1999 have tended to switch its focus towards entertainment (*The Nation*, 29 June 1999: A4). Neither of the Army-owned but commercially leased Channels 7 or 3 offer many programmes with a community perspective. Rather, they are the top-rating channels because they emphasise entertainment. Channel 5 has several programmes that are community-centred but paternalistic. Some Channel 11 programmes present genuine civic debates, such as *Waytee Chao Ban* (*Platform for the People*), but the channel is also seen as a government mouthpiece. UBC, the Pay-TV carrier, has few civic-oriented programmes, though it launched a twenty-four hour Thai and English-language news channel on UBC 8 in June 2000 with the Nation group (*The Nation*, 30 March 2000).

Tod Rahad (*Exposed*), on iTV Monday at 8.35 pm is one of the most interesting new urban current affairs programmes. Beginning in 1999, it is hosted by Korket Juntaertlak, a younger reporter than Suthachai or Chirmsak, and an assistant director of iTV. The programme resembles the US's *60 Minutes* or Australia's *4 Corners* in presenting in-depth profiles of current issues. The opening graphics superimpose the show's title in red over a large grey steel safe swinging open with a resounding clang. One July 1999 episode exposed corruption in the antiques trade at Ayuttaya. Its second segment criticised the influence of video game arcades on young people, with interviews from the arcade owners set against critics from the *Sor Yor Chor* (Society for the Protection of Young People). In another April 2000 programme on Had Yai's drug trade, an interview was shown with the Chinese-Malaysian owner of a disco recently raided by police looking for *ya ba* (amphetamines). Although Thailand's main border problem with drugs is in the north, the Malaysian border is also troublesome. The government funds an intensive media anti-drugs campaign.

The leading broadcasters in urban civic-oriented current affairs programmes are Suthachai Yoon, Suparp Khleekhajai, Korkhet Juntaertlak and Sorayut Sutassanajinda from iTV, Adisak Srisom of Channel 11 (now iTV in 2002), Kasemsan Weerakul on Channel 3, and Chirmsak Pintong,

mainly on 9 – though several of his programmes now have been banned by Thaksin. Leading women reporters are Prapaipat Komapat, Naragorn Ratigorn and iTV's Anchaleeporn Kusum. Chirmsak co-hosts *Lan Ban Lan Muang* with Suvit Suthiprapha, who also hosts 9's *Trong Praden* and is Chief of Political News at the MCOT. Suthichai (1995) epitomises contemporary urban tele-journalism, whereas Chirmsak is the outstanding broadcaster who campaigns for rural Thais. They are both aged in their forties. Suthachai is often abrasive and aggressive by Thai standards, while Chirmsak is more measured, though equally forthright. Chirmsak's earlier *Mong Tang Moom* programme on Channel 11 was banned after an on-screen confrontation with Prime Minister Banharn in 1996.

There are fewer rural-oriented programmes with a civic orientation, but the ones that treat rural issues seriously have a more open and dialogical format than urban talk shows, which invariably have invited guests with expertise in specific areas. The best example of a community-oriented programming involving a wide cross-section of local people is *Lan Ban Lan Muang*. In addition, there is a weekday half-hour regional news bulletin on Channel 11 at 5pm, which also has *Waytee Chao Ban* on Saturdays at 8.30pm. Bangkok television alternately romanticises and demonises country Thais, as does much political analysis (Anek 1996). Many programmes routinely eulogise Thai culture – by showing silk production by Isan weavers, or the King's development projects – yet the practice of vote buying is mostly shown as a rural problem. In this vein, one March 2000 episode of *Tam Laa Ha Khwamjing* (*Search for the Truth*), hosted by one of Thailand's best-known women reporters, Prapaipat Komapat, investigated an unsolved political assassination in Nakhon Sawan, where an election candidate had been shot while campaigning.

Many episodes of *Lan Ban Lan Muang* are made in rural Thailand. Its host, Chirmsak is one of the leading public interest broadcasters, and his Watchdog company is the chief producer of independent programmes with a civil society emphasis. Chirmsak, originally a Thammasat university economics lecturer, was invited by the Prime Minister's office to develop socially responsible programmes. He worked first with the Creative Media Foundation, and then with Somkiat Omniwool's Pacific Media, to produce an agricultural programme *Kaset Chao Ban*. After creating *Mong Tang Moom* in 1992, Chirmsak started Watchdog in 1993 with a group of other Thammasat lecturers and some MCOT staff. *Mong Tang Moom* was screened on Channel 9 during Saengchi Sunthornwat's reform period at the MCOT and Watchdog went on to produce many similar programmes. These include *Kor Kid Duay Khon* (*Think and Do Together*), *Pa Tong Ton* (*Solve the Problem*) on UBC, *Krong Satthanakarn*, *Look for Dhamma*, and *Lan Ban Lan Muang* in 1997. Watchdog's programmes are shown on Channels 9, 11 and iTV. Their productions differ sharply from those of other production houses, such as Dara TV, JSL and Media of Medias, which make light entertainment (Ousa 2001). Chirmsak is a committed Buddhist and relies on

the appeal of monks in local communities to involve participants. For instance, hosting *Roo Dhamma Nam Chewith* (*Buddhism and Life*, Ch 9, 29 March 2000) in Prachinburi, he discussed the controversial Dhammakaya sect, discrimination against *katoeys* (gays), and Thai women's place in public life. In March 2000 Chirmsak was elected as a Senator for Bangkok.

Chirmsak's format in *Lan Ban Lan Muang* has since been extended in a new discussion programme about social issues called *Tid Ban Tan Muang* (*Direction of the Country*). Hosted by Chuchai Supawong, a senior public health official and consumer advocate, and broadcast on Channel 11 on Sundays at 1–3 pm since March 2000, it takes the type of issues raised by Chirmsak one step further. The programme was developed in consultation with two NGOs, the Civic Forum Group and the Local Development Institute (LDI), the latter of which is associated with one of the most prominent elder spokespersons for sustainable development, Prawase Wasi. The host maps out the problem on a studio blackboard, then pursues the issues with a few expert guests, including officials and community leaders. Topics have included local fishermen's opposition to the controversial Pak Mul Dam in Isan (the northeast), and environmental problems of the fishing industry in Songkhla. As important as *Lan Ban Lan Muang* was in raising community issues, some felt dissatisfied that nothing resulted from these extended discussions, which was the impetus for *Tid Ban Tan Muang*.

Last, some programmes deal specifically with the environment. This has been a major concern since devastating floods in the South in the late 1980s due to deforestation led to a ban on logging. Some programmes may be considered as 'greenwashing', or papering over the cracks, rather than seriously attempting to deal with the issues (Ubonrat 1992). Yet there is a persistent effort, especially on weekend morning children's programmes, to promote pro-environmental views. For example, Channel 3's Saturday morning half-hour *Thung Saeng Tawan* (*Fields of Sunlight*), has an 'edutainment' format. Its producer Niramol Methisuwakul decided that the mainstream media negatively stereotyped the Thai Hill Tribes (*chao khao*) as environmentally destructive. Her programme therefore shows Hill Tribe children exploring their own rural surroundings in an environmentally friendly way (Krisadawan 2000).

There are two main obstacles to television dealing effectively with civil society in rural Thailand. First, programmes about local affairs have relatively low ratings, while serious programmes on the countryside are political hot potatoes. Many programmes have a discussion format with local officials and experts hosted by a Bangkok MC. Though these shows can be animated and critical, they rely on 'talking heads' and only appeal to serious-minded viewers. These gatherings resemble Indonesian *klompencapia* village meetings where local people discuss television programmes about state development projects. They have the drawback of much development journalism in their over-reliance on official viewpoints (Gunaratne 1998). Second, there was an increase in rural protest in the 1990s. Groups such as

the Assembly of the Poor became radical activists, organising huge marches on Bangkok in 1995, 1996 and 1997. Protesting about dams, forest resettlement programmes and rural debt, they forced major concessions from the Banharn and Chavalit ministries, though some were lost under the second Chuan government. Bangkok journalists who sympathised initially with the protestors then turned away from supporting them (Baker 1999).

It may be naive to expect mainstream television – in Thailand or anywhere else – to ever become the champion of civil society. Communicating news about civil society requires deliberative democracy, as in some US and Philippines experiments (Shafer 1998), not adversarial political reporting. Thai television has a short-term memory, favours entertainment, and human interest and current news stories. Radio, the press and the Internet can present more alternative perspectives. However, television journalism did improve very significantly in the 1990s. Programmes like *Lan Ban Lan Muang* and other Watchdog productions are serious yet reasonably popular. In April 2000, Chirmsak's show was running on Friday evenings in prime time on 9, when Suparb's *iTV Talk* and Adisak's *Krong Sathanakarn* were showing on iTV and Channel 11. There is at least as much political debate on Thai television as in Australia, while the Thai community development programmes have no real Western parallels. There is a didacticism about these that also has no Western counterpart, yet their presence suggests a genuine attempt to engage ordinary people in public debate.

The prospects for media reform

Although some argue that the media and communications now occupy a central place in public opinion formation (Thompson 1990; Fornas 1995), for most people the media are more likely seen as tangential to their daily lives (Livingstone 1999). Specialised debates about media policy among scholars rarely enter mainstream politics. For instance, the outrage over Thaksin's takeover of iTV in 2000 had vanished when he appeared before the Corruption Commission in June 2001. The multi-millionaire could then present himself as a people's hero and a champion of the poor! (*Bangkok Post*, 14 June 2001: 1). In November of the same year his Shin Corps bought all of iTV. The major issues of the 1990s centred on the political process, and many areas preoccupied reformers – unemployment, child and immigrant labour, banking, public service and local government reform, health and education, labour conditions, and crime, drugs and prostitution (Lewis 2001). Compared to these, reforming the media was relatively unimportant, yet the media was the main channel for communicating these problems to the public.

Through the combined influence of iTV's creation after 1996, the growth of civil society style discussion programmes, the rise of investigative reporting pioneered by Somkiat, Sutichai, Thepchai and Chirmsak from the mid-1990s, and the continued vitality of the quality press, the media has

become more alert to abuses of state and business power (Thitinan 1997). What is most problematic is the future of media reform under Thaksin. On 25 April 2000 the Prime Minister's Office allowed him to buy 41 per cent of iTV's shares, taking some of the mounting pressure away from its financier the Siam Commercial Bank. The recession had seriously constrained iTV's ability to meet its contractual payments. However, the Union of Civil Liberties criticised Thaksin for violating Article 40 of the Constitution that required iTV to be managed for the benefit of the people (*Bangkok Post*, 19 January 2001: 2). In the run up to the January 2001 election, iTV was then charged with pro-Thaksin bias, including its censorship of the programme *Sarakhan*, which had lampooned Thaksin's strategy of buying up opposition politicians, and public protests by journalists at iTV and Channel 3 about pro-Thaksin editorial interference. Subsequently, iTV dismissed twenty three of its staff who had protested in February 2001 (*The Nation*, 4 January and 28 February 2001: 1).

The key regulatory reform issue remains the appointment of the National Broadcasting and National Telecommunications bodies. Chirmsak, Damrong Puttan and other Senators in March 2001 brought charges about alleged corruption in the appointment of the NTC selection committee and the process was halted (*Bangkok Post*, 3 March 2001). Yet Army and ex-PRD, MCOT and telecom agency officials have been able to manipulate the creation of both agencies. In December 2001 the Democrats sought to launch a constitutional challenge to Thaksin because of his government's interference with the media. They charged him with intervening in the selection of NBC members, taking over iTV, scrapping critical discussion programmes such as *Lan Ban Lan Muang* and *Nation News Talk*, giving state advertising contracts to Shinawatra companies, and directing the PRD to present pro-government news reports (*Bangkok Post*, 9 December 2001: 1). However as Thaksin intends to privatise the state telecom and broadcasting agencies, it seems that media reformers must accept this, and seek ways to bring public interest considerations into the operating charters of the new agencies (Uajit 2001).

Civic reformers fought a sustained battle to liberate broadcasting from its state and Army masters through the 1990s, and had some success with the creation of iTV, the reform clauses in the 1997 Constitution, and the spread of community oriented programmes. The Thai media, for all its problems, is much more free than its counterparts in Malaysia and Singapore, and incomparably more so than in Myanmar, Vietnam and Laos. Yet Shin Corps now has a cross-media monopoly involving satellites, cell-phones, paging and iTV (Lewis and Thompson 2000). Thaksin's former business rivals – Dhanin Chearavanont of Telecom Asia and Boonchai Bencharongkul of UCOM – have joined his cause, and Pracha Maleenont from Channel 3, is now Deputy Minister for Communications (*The Nation*, 15 January 2001). As Ubonrat (1997) predicted, convergence between Thai telecoms and broadcasting is likely to subordinate the public interest dimensions of

broadcasting reform to the commercial imperatives of the internationally driven telecommunications sector. The Army's power has been reduced, yet now the main obstacle to media democratisation is the power of monopoly capital. Under Thaksin, 'Amazing Thailand' – the theme of many recent Thai tourism campaigns – is becoming 'Thailand Inc.'

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2 Out in front

Government regulation of television in Malaysia

Philip Kitley and Zaharom Nain

The roots of civil society in Malaysia

Modern Malaysia was established in 1963 following a drawn-out struggle against British interests which had occupied territory on Penang and Singapore and the Straits of Malacca in 1786, 1819 and 1824 respectively. In 1867 these outposts came under the control of the British Colonial Office and were governed as a Crown Colony. Although Britain did not directly colonise the Malay States, which remained legally autonomous, it imposed effective administrative control over Malaya and the Borneo territories from the late 1870s until the Japanese occupation in 1942.

Indigenous resistance to the gradual extension of British intervention in the governance of the Straits Settlements and Federated Malay States, and to the immigration of large numbers of Chinese and Indian labourers recruited to work on British plantations and mines, began in the late nineteenth century. Vernacular newspapers and journals such as the secular *Utusan Melayu* and the Islamist *Al Imam* contributed to the 'nation of intent' of Malaya (Sani 1976; Shamsul 1996; Roff 1967: 49–55). The politicisation of issues such as the citizenship rights of immigrant Chinese and Indians who had settled permanently in Malaya, and the continued relevance of the sultanates as a form of political community in a social and political formation increasingly imagined as a rapidly modernising nation, contributed to the creation of a public sphere in Malaya. Anthony Milner argues forcefully that the public debate amounted to the 'invention of a discourse of politics' concerned with 'contending perceptions of human association and human purpose' (1995: 3) and focused on issues such as ideas of the state, race, nation, citizenship and republicanism in the decade prior to the Second World War and afterwards. William Roff has described how the twin pressures of urbanisation and modernisation contributed to the development of Malay associations of 'a modern kind' from 1900 onwards in the Straits Settlements and peninsula Malaya. These associations modified primordial forms of association typically based on origin and language and drew on Western and Chinese models to create what we can think of as civil society associations focused on self-improvement, progres-

sive social action and forums for the discussion of social and cultural issues (1967: 178ff).

Over the period 1948 to 1960 known as 'the Emergency', the nascent civil society of Malaya was heavily constrained by a wide range of Emergency Regulations and a propaganda offensive which overdetermined press and radio broadcasting activities. The Emergency politicised the media and created an environment in which government control and direction of media developments were naturalised and taken as normative. It is this authoritarian climate which perhaps explains the almost complete lack of interest in the establishment of television in Malaya when it was announced in the parliament in 1962 (Karthigesu n.d.). No one, it seems, believed that the government television channel would offer anything more than government radio and the heavily controlled press had done for the past twelve years.

As in Indonesia, television was introduced into Malaysia with a variety of motivations. It was part of national pride – after all, neighbouring Thailand and Indonesia had already established national services, and Singapore's planning was well advanced. Television was understood by the Prime Minister Tunku Abdul Rahman as a key element in the regional and national drive towards modernity (Karthigesu n.d.). It was also understood as another element in the government's nation-building and anti-communist effort which was all-consuming over the period of the Emergency. As in Indonesia, the Malaysian government gave little attention to governance of the new medium, simply adding it to its media offensive on the assumption that the government would exercise control over the new service. We can understand this as a 'security approach' which positioned the imagined audience as a passive, racially diversified mass audience. It was not until 1988 that the first Broadcasting Law was introduced, just a few years after the new commercial television channel, TV3, established in 1984, began to depart from the national development guidelines which had governed TV1 and TV2 broadcasts since the 1960s.

The Emergency had a major impact on both the infrastructure and ideology of broadcasting in Malaysia. It expanded broadcasting facilities, it established the idea of programming in multiple languages, and it created a broadcasting service which was widely understood as an integral part of the government's nation-building and national culture project. In 1969 another emergency situation, the race riots of 13 May, had equally profound effects on the media. Slimming (1969) describes a situation of great confusion and a lack of professionalism in management of the media during the period of the riots. After the riots major changes were introduced to the management and programming of television based on the hastily put together national ideology known as *Rukun Negara* or national harmony. Significantly, the multi-language provisions of RTM radio and television, which had been central to metropolitan and regional radio broadcasting during the Emergency, were cut as they were seen as 'divisive'.

The subject of regulation

Regulation may be narrowly understood as the statutes, institutions and policies which govern the operation of media business. But regulation can be understood more broadly as governance, and as a concern with cultural affairs, practices and policies, and the regulation of audiences. Regulation, that is to say, can be understood as a system of discipline and normalisation, a specific avenue along which dominant norms, values and beliefs of society are made explicit and distributed. Understood in this way, regulation rubs up against issues such as civil society and the creation and maintenance of a public sphere. It is in this broader sense that we consider the regulation of television in Malaysia.

Our focus on the subject of legislation is unusual in the literature of broadcasting regulation. Such discussions are usually concerned with the intervention of the state into commercial activities, market relations, and with the state's rights in regulating and licensing so-called public goods. Generally, and often tediously, discussion is concerned with the institutional form of regulation in different polities. The focus here, however, is on the discourse of power relations inscribed in regulatory language and discourse. Attention is directed to legislation as a mode of cultural normalisation, as well as legal control, which seeks to regulate audiences and other modes of participation in media functions. Understood this way, broadcasting regulation is read as imagining relations between idealised or model subjects and the polity.

The argument in this chapter is that within regulatory discourse and practices there is a suppressed narrative of the subject, a narrative that may be read as a socio-cultural relation, a way of ascribing meaning to individuals and groups in society. Surfacing the masked relations between regulatory authorities and audiences draws attention to the challenges and possibilities that civil society and state actors face in developing the attitude of self-reflexivity vital for 'an open, pluralistic civil society protected and nurtured by publicly accountable state mechanisms' (Keane 1998: 64).

The Broadcasting Act of 1988, brought down four years after the first commercial television channel TV3 was established, was a highly centralist document which granted government the exclusive power to regulate television broadcasting and reception in Malaysia. The subject spoken for by this controlling regime of central state monopoly power is an abstract subject, unmarked by gender or race, but written over as Bahasa-speaking, universal Malaysian. The erasure of the subject's race and language was deliberate, and marked a change from the race-based 'community programming' in place on Radio Television Malaysia since the Emergency until 1970. The assumption of a universal 'Malaysian' subject was designed to entrench in law the national unification goals of the broadcasting code established by Information Minister Hamzah in 1970 after race riots in Kuala Lumpur in May 1969 (McDaniel 1994: 84–5).

The model of broadcasting implicit in the discourse of the 1988 Act is a linear functionalist model which assumes that the mass media are powerful and have direct persuasive effects on the audience. The transmission paradigm positions the audience as passive and vulnerable, and in need of the protection of the state. The state legislates to protect the subject from foreign content, unscrupulous advertising and unlicensed broadcasters. In the Act television sets are represented almost as strategic products. The subject's access to and use of these sensitive products was tightly controlled as the Act prohibited the sale, installation or repair of sets and antennae by anyone not licensed by government.

Any rationale for what can be described as a security approach to broadcasting is missing from the legislation. Ideas of the national good, the public interest and the integration of society which were behind the emphasis on the careful regulation of content and access are not addressed. The universal mass audience is assumed and spoken for by the postcolonial state which wrapped the television sector in the highly directive policies of the former colonial state, even though in 1988 Malaysia had been an independent polity for more than twenty years. As Sheila Nair argues, the source of the post-colonial state's legitimacy lay in its claims to secure political stability, social order and national security (1999: 92). Control of broadcasting was obviously a key site for the preservation of ideas of national stability.

The development of commercial television

Table 2.1 draws attention to parallels in the development of television in Malaysia and Indonesia. These developments are evidence of the internationalisation of the mass media, which began in the 1950s as a one-way flow from modern to traditional societies (Volkmer 1997: 50). But the match breaks down, both in timing and in content, on the issue of regulation. In Indonesia, the 1997 Broadcasting Law discussed in Chapter 3 may be understood as an act of political desperation, as an out-of-touch regime tried to hold on to its cultural power. In Malaysia, the repeal of the 1988 Act and the proclamation of the Communications and Multimedia Act of 1998, is an act of hope, hope that opening out to the realities of the globalising economy of information and communications technology will boost local economic development and the ruling coalition's (*Barisan Nasional*) political appeal. Both Acts are politically self-interested, but their different take-off points are likely to usher in different directions in the development of civil society in each country. In Indonesia, the struggle is more direct, as discussed in Chapter 3. In Malaysia, the struggle over television regulation has hardly begun, in the sense that thus far the government is in advance of civil society and the IT elements of Vision 2020 have general if cautious approval. In Indonesia, the gains for civil society are likely to be powerful. In Malaysia, the social change which is inherent in opening out to the globalisation of Information and Communications Technology may have profound but more diffused effects.

Table 2.1 The development of television in Indonesia and Malaysia

<i>Television events</i>	<i>Indonesia</i>	<i>Malaysia</i>
State monopoly TV on air	1962	1963
Second state channel on air	1989	1969
Domestic satellite launched	1976	1996
Colour TV on air	1979	1972
Commercial TV introduced	1990 RCTI, SCTV 1991 TPI 1993 ANTEVE 1995 IVM (Indosiar)	1984 TV3 1995 Metro TV 1998 NTV7
Cable and satellite services	1989-90 RCTI as Pay TV	1995 Mega TV, cable operator 1996 Astro, satellite TV service
Broadcasting Legislation	1997	1988, 1996, 1998

Limits to civil society and control over television

If we take ‘civil society’ to encompass popular organisations which are not part of or controlled by the formal institutions of the state, willing and able to critically engage with the state and with state policies and strategies, we would be hard put indeed to find such a society in existence during the decade or so after Malaysia attained political independence from the British. Indeed, it has been observed that the major elements of what may have constituted civil society in this period were structured by discourses provided by the state (see Jesudasan 1995; Nair 1999). We would argue here that this was mainly a result of two related factors: first, the introduction of a slew of draconian laws, such as the infamous 1960 Internal Security Act (ISA), and, second, prevailing political and social uncertainties and tension. Indeed, despite the Emergency having ended in 1960, within a period of barely a decade, yet another Emergency was declared after the ethnic riots of May 1969. (Technically, Malaysia is still under a state of emergency, because the emergency order was never lifted).

At independence in 1957, Malaysian (then Malayan) society was very much an ethnically divided one, thanks to the ‘divide-and-rule’ policy of the colonial administration which had also emasculated the progressive labour movement. Hence, for example, the common perception then was that Chinese Malaysians controlled the economy, Malays dominated politics and the civil service, and Indian Malaysians were predominantly labourers, especially in the rubber plantations. Such ethnic divisions were reinforced by the fact that the three major political parties in the *Barisan Nasional* – UMNO

(United Malays National Organisation), MCA (Malaysian Chinese Association), MIC (Malaysian Indian Congress) – were – and are still – unapologetically ethnic-based and, more often than not, champion ethnic issues. Also, soon after the May 1969 riots, the New Economic Policy (NEP) was introduced by the state, further highlighting ethnicity, not least of which by officially demarcating Malaysian society into two racial groupings, *Bumiputra* (literally ‘prince of the earth’) and non-*Bumiputra* – the former being made up of the ethnic Malays and other indigeneous groups, and the latter comprising mainly Chinese Malaysians and Indians. Major national economic, social and cultural policies from the early 1970s onwards have been coloured by this ethnic divide. This institutionalisation of ethnicity invariably impacted on Malaysian society and also constrained the transformative capabilities of civil society during this period. Not surprisingly, in this period, ethno-religious groupings, such as ABIM (*Angkatan Belia Islam Malaysia* or Malaysian Islamic Youth Force, formed in 1971) and DJZ (*Dongjiaozong* or the Chinese Schools Movement, formed during the colonial era) were the main voices of Malaysia’s nascent civil society. Ethnic preoccupations seemed to colour society’s activities, including those of civil society. Indeed, it could be argued that what constituted civil society in this period was very much determined not only by official state discourses but, more importantly, by state policies and actions. As Jesudasan (1995: 353) puts it:

Cultural schisms in society have ... added to the problems of civil society by making it difficult for ethnic groups to forge horizontal ties among themselves. The state’s own cultural practices have further congealed ethnic and religious identities in ways that preclude their free negotiation and exchange in society.

This ethnic dimension notwithstanding, authoritarian controls – mainly introduced and reinforced during the 1970s and, more especially, in the 1980s, after Mahathir became Prime Minister in 1981 – imposed further severe limitations to the activities and development of Malaysian civil society. The ISA, which allows for indefinite detention without trial, was used with chilling effect in 1987, when the regime conducted Operation Lallang, detaining 106 men and women, including key opposition politicians and heads of NGOs, purportedly to prevent the outbreak of ethnic violence. The 1966 Societies Act (Amended 1981) enjoins every society to be registered with the Registrar of Societies (a government appointee) before it can be officially established. The government has the power to de-register any society on grounds of security or morality, or for not sticking to its constitution, and, on numerous occasions, has threatened to do so (Gurmit 1984). The 1972 Official Secrets Act (OSA) (Amended 1987) prohibits a person from getting information that is deemed an ‘official secret’ by the government and which, so goes the official line, may be used by Malaysia’s enemies.

This Act serves as a very reliable wall behind which government business may be conducted without much interference and without the need to be accountable and transparent. Having this slew of laws, together with others, such as the University and University Colleges Act (UUCA), which, among other things, prevents students from being actively involved in politics, the Sedition Act and the Printing Presses and Publications Act (PPPA), not only reinforced the control the regime had over Malaysian society in the 1980s, but also seriously curtailed the expansion of civil society. And it is within this scenario that the links between the state, civil society and television need to be made.

In 1981, Dr Mahathir became Malaysia's fourth Prime Minister and almost immediately set about transforming the country into becoming an active, if not major, player in the global capitalist economy. The cornerstone of his strategy was the privatisation policy. Officially, privatisation in Malaysia began in 1983, a time when, globally, Thatcherism and Reaganomics were setting the trends while, domestically, the poor performance of the Malaysian public sector, particularly many Malaysian public enterprises, was being questioned and addressed.

In this same period, two decades after it was first introduced, Malaysia's state television, RTM, had become a dinosaur. And the Malaysian public, especially the rapidly-growing middle class, was beginning to treat it as such, thanks to the availability of video. There were even those in the south who had resorted to installing taller television aerials in order to receive television programmes from neighbouring Singapore. It has been observed of government-controlled television at this time that

[Firstly] the lack of funds was affecting the quality of network productions, which in turn dissatisfied viewers. Secondly, there was the widespread adoption of videocassette technology, allowing for easier access to foreign programmes, particularly from Hong Kong and India, to satisfy the needs of minority groups. Spill over of border television stations, particularly from Singapore, was another factor that led to the government's change in policy.

(Hashim 1997:36)

The response from the Malaysian authorities came in two forms – legal and commercial. Legally, the National Film Development Corporation Act (FINAS) (1981) was amended in 1984 in response to technological changes that had taken place in the film industry and the popularity of video. The amended Act widened the definition of film to incorporate video tapes, video discs, laser discs and video compact discs. Officials of FINAS could now exercise control over and act on people who were found contravening certain provisions of the Act. Under the Act, anyone who possesses three or more copies of the same film is deemed involved in film distribution, and is therefore required to apply for a distribution permit.

And while the legal mechanisms were being put in place to check the video 'threat', the commercial strategy came to the fore: in June the very same year, TV3, Malaysia's first commercial television station, was born. By October 1985, TV3 was broadcasting nationwide. Right from the outset TV3 neither hoped – nor could pretend – to be politically or editorially independent. It did not emerge due to an Act of Parliament or some Royal Charter. There was no prior public debate and nobody seemed to think there was any need for a Royal Commission of Enquiry. Quite simply, very much like RTM, it was conceived because the Malaysian government felt that it needed to be conceived. And the obvious involvement of the state in TV3 right from the beginning put paid to any thoughts of it being politically or editorially independent.

When it was initially set up, TV3 was owned by Fleet Group, the investment arm of UMNO, the dominant political party in the ruling coalition. In September 1983, months before TV3 began transmission, the then Information Minister, Adib Adam, had asserted on TV1's local current affairs programme, *Hal Ehwal Semasa*, that there would be no conflict of interest between RTM and TV3. As far as he was concerned, 'The latter would concentrate on entertainment, while the former will continue to pursue "development and education" goals' (*Malaysian Business*, June 1984:15).

Breaking ranks was well-nigh impossible for TV3 right from the start, if we consider its initial corporate structure and its direct links with the state. When it was established, a 50 per cent stake was held collectively by Fleet Group and prominent businessman, Daim Zainuddin (Daim's 10 per cent interests were held through his family companies, Daan (5 per cent) and Dani (5 per cent). Daim, a close ally of Mahathir and UMNO's treasurer, incidentally was also a director of Fleet Group and, in 1984, was appointed Malaysia's Minister of Finance, a post he held for almost a decade. Another UMNO controlled company, Utusan Melayu, held 10 per cent and Maika Holdings, the investment arm of the MIC, held a further 10 per cent. With virtually 70 per cent of the company being under the ownership and control of state-related actors and institutions, it would have been stretching it somewhat to imagine TV3 being an 'alternative' voice.

Erroneously, the advent of TV3 signalled for many the beginning of the deregulation of broadcasting. There was very little critical response from civil society, not that there were many avenues made available for critical responses. As with many policies and strategies designed by the regime, the emergence of TV3 was very much treated as a *fait accompli*. Whatever concerns were expressed were decidedly moral in nature, principally expressed by the Penang-based Consumers Association of Penang (CAP) and a sprinkling of religious groupings. Akin to the stand of the Moral Majority in the US, their concern was with the 'immoral' nature of some of TV3's more racy imported programmes. Unfortunately, concerns about the seemingly undemocratic nature of TV3's share ownership and editorial

contents were hardly raised by these groups, and certainly not by the compliant mainstream media.

The subject of the Communications and Multimedia Act

The Communications and Multimedia Act of 1998 (C & M Act) speaks a new language. The Act is written in the globalised language of the cybersphere, the language of information and communications technology. Familiar words such as television, radio and broadcasting are not mentioned in the Act. It speaks of 'network facilities' and 'network service providers', and of 'content applications service providers'. This is the language of media and market convergence, and the Malaysian Act talks the talk better than any other recent legislation. It is the most highly developed legislative platform enabling convergence in the world.

The Act is just one element in a new regulatory regime that the Malaysian government refers to as its Cyber Laws. Three cyber laws have been passed: the Digital Signatures Act 1997, the Computer Crimes Act 1997 and the Telemedicine Act 1997. A Copyright Amendment Act, an Electronic Government Act and an ASEAN Cyberlaw Institute and Cybercourt of Arbitration are under consideration. A new programme of study in Cyberlaw has been developed at the University of Malaya.

The subject of the Communications and Multimedia Act is more directly represented in the discourse of the Act than the subject of the 1988 Act. The subject is an artefact of broadcasting technologies, represented as an 'enduser' and a consumer of a variety of different services. Although the subject appears to be more actively engaged in broadcasting practices and is assumed to take part in civil society (in Malaysian government terms, understood simply as the use of information services for the enhancement of the quality of life and work (Sect. 3(2)), the subject is positioned more as a dependent beneficiary of technological developments, a consumer of services provided for her/him.

The shift in the construct of the subject from the postcolonial subject-in-community to the subject as enduser/consumer is consistent with the shift to the knowledge society championed by the Malaysian government (Nain and Anuar 1998; Nadarajah 1999). The decentred self of the information society is a consumer and enduser, a bottom-feeder of services. Set free from ethnic and spatial associations, the consuming-using self is disaggregated, and harder to recruit and link to older forms of class, community and political association. In the increasingly anonymous culture of the cyber community, place and race diminish in importance. In this sense, the promotion by the state of the national information society project can be understood as a move away from old-style nationalist politics. For the politics of the information society are increasingly decentred, increasingly transnational if not global.

It would be wrong, however, to ignore the multiple subject positions inscribed in the new Act. Unlike the repressive regime of the 1988 Act, the

new Act acknowledges and welcomes participation by Malaysians in the development and even management of a future-oriented Information and Communications industry. As part of this industry, subjects will design, produce, circulate and use sophisticated technologies and services as part of a national and global industry. Their energy and contribution are understood as shaped and dependent on the logic of the capitalist market place. The discourse of the 1998 Act frees the subject from the repressive control of the earlier legislation and appears to offer industry players, as distinct from the mass audience, a role in managing and developing the IT industry through participation in a series of industry forums. The Content, Advertising, Technical Standards and Access forums are charged with the responsibility of developing voluntary codes of practice (Sections 94, 95). The forums bind their participants into the economistic logic of Vision 2020 and the National IT Agenda (see below). This shift to voluntary participation in industry regulation might be understood as productive of new and more positive civil society relations between the state and broadcasting subjects. But the discourse of volunteerism masks the continued intensive involvement of state authorities in the development and control of broadcasting. First, the discourse privileges the market as a mode of productive activity, and understands information technologies and services as primarily a promising industry sector which will contribute decisively to economic growth, rather than a means and factor in social, cultural and political development. Second, despite the appearance of sharing of regulatory authority, the legislation makes voluntary codes subject to the approval of the Communications and Multimedia Commission. If the industry forums fail to develop voluntary codes, they will be subject to mandatory codes handed down by the Commission (Section 95).

The discourse of volunteerism has already become the site of what Pecheux calls 'disidentification' by some sections of the industry (1975, trans. 1982: 158–9). The logic of the market has proved stronger than the language of voluntary co-regulator in two of the harder-edged forums. The Technical Standards and Access Forums have become bogged down over voting rights of players involved. Given sizeable and unequal investments in infrastructure, market leaders have objected to sharing voting rights equally with rival companies which have invested far less, and which may use their voting rights to obtain commercial benefits they would find difficult to obtain otherwise (personal interview, Communications and Multimedia Commission, 3 February 2000). The breakdown in relations between two of the forums and the Commission points to the antagonistic relations between the free market and regulatory discourses inscribed in the 1998 Act.

Statute law such as the Communication and Multimedia Act speaks from the parliament, the supreme legislative body in Malaysia, from which it derives its legitimacy and its universality. The Act, or juridical authority, interpellates subjects in the public, commercial sphere, categorising individuals and corporations as licensees of different kinds, and normalises and

disciplines competitive relations by providing penalties for prohibited practices such as 'market dominance'. But the C & M Act cannot be understood as concerned only with the IT industry, the public sphere of commerce and investment. Like all cultural policy and regulation, it is split across the public and private spheres. The Act disciplines and controls industry and commercial practice and, as well, normalises and disciplines the viewing and listening practices of audiences in the private sphere. It is this split which gives this kind of cultural regulation a deceptive face. Its authoritative, controlling language is understandable and unquestioned in its application of regulating activities in the competitive public sphere. The discourse of free and fair competition is the controlling discourse in this industry, as in others, in a Malaysia which has so determinedly adopted the path of capitalism in moving towards Vision 2020. But the same tone and peremptory language are carried over into Sections which address practices in the private sphere, creating a mode of discourse which turns the private sphere into the public sphere.

The unruliness of competitive economic relations becomes the ground for reaching intrusively into the private sphere in an endeavour to discipline what are assumed to be unruly private subjects and practices. The mechanism for opening up the private sphere for surveillance and extending government control is the Content Forum, described in Part IX of the Act under the heading 'Social Regulation'. The Content Forum turns broadcasters into the self-disciplined subjects Foucault describes, subjects who speak for and codify others' behaviours, voluntarily normalising their practices in a devolution of juridical authority and in the name of 'the community' (Foucault 1991). In this way the C & M Act speaks for audiences, normalising tastes, values and beliefs about sensitive issues such as offensive and indecent content, race and religion in the name of national stability (Sections 211–13).

A broader perspective

The development of the Cyber Laws and the Communications and Multimedia Act should be understood as all of a piece. They are the foundations of Malaysia's elaborate and ambitious plan 'to establish Malaysia as a major global centre and hub for communications and multimedia information and content services' (Section 2a). The laws and the new institutions, policies and values are the software of Malaysia's development strategy known as *Vision 2020* which the Prime Minister, Dr Mahathir Mohamad, announced in February 1991. *Vision 2020* is a long-term strategy designed to establish Malaysia as a fully developed nation by the year 2020. 'Developed' is understood broadly, and embraces economic, political, social and spiritual development (Ahmad Sarji Abdul Hamid 1993: xiii). In the original discussion of *Vision 2020*, the contribution that information and communications technologies might make to national development is barely

mentioned. In 1996, the Seventh Malaysia Plan (1996–2000) outlined an IT National Action Plan, and in August 1996 the Prime Minister introduced the Multimedia Super Corridor (MSC) to the parliament. Since the MSC plan was launched, the MSC has become the face of IT.

The MSC, unlike the cyber laws, is physical infrastructure. The corridor is fifteen kilometres wide and fifty kilometres long (750 square kilometres), significantly larger than the total land area (581 square kilometres) of neighbouring Singapore. As Singapore is also intent on positioning itself as a global IT hub, the scale of Malaysia's corridor can be understood as a kind of one-upmanship. Given that electronic communications neutralise distance and place, how are we to understand centres or nodes such as the MSC in the global electronic Web? We suggest that the MSC is best understood as a re-imagining of Malaysian national identity. The economic objectives of Vision 2020 re-imagine the nation as a player in the global economic system, but use globalism to maintain the bounded nation state imagined in the postcolonial period at a time when the certainties of the postcolonial nation are increasingly under pressure from discourses which challenge national cultural objectives. It is significant that Malaysia's entry into the world of global information and communications technology should be so intensely physical and so emphatically grounded. What this suggests, theoretically, is the need to re-think Benedict Anderson's idea of the spatial limits of the nation as an imagined community, for IT and globalised relations make national boundaries of which Anderson was so certain, increasingly untenable (Anderson 1991: 7). In local, national terms, the decision to sup with the cyber world is likely to introduce tensions in civil society and the regulation of the media. Once opened out to the highly differentiated social and cultural world that globalised communications gives access to, it becomes much more difficult for local authorities to insist upon a narrow, *nationally* defined system of values and aspirations.

Television and civil society in a transnational environment

In the wake of the economic and political crises of the late 1990s, it would be nice to think that cracks in the regime's hegemony have created more space for civil society and, by extension, more space for alternative discourses in Malaysian television. And for a while it seemed that way. UMNO lost a lot of ground in the 1999 general election, principally because many voters in the Malay community felt that former deputy prime minister, Anwar Ibrahim, had been treated unjustly. Many in the NGO community had moved into party politics by taking up posts in the newly-formed *Keadilan* (Justice) party. Many young Malaysians were beginning to take interest in what was going on, politically and economically, in the country. There was indeed a widespread feeling that even after the *Reformasi* rallies and demonstrations had died down, the impetus for change would still be there.

And, on paper, it seemed that there would be enough space on Malaysian television for all these different discourses to be expressed. After all, from the mid-1980s onwards, television had expanded quite dramatically in Malaysia, as if in anticipation of globalisation. By 1998, apart from the two government-owned channels (TV1 and TV2), and TV3, two private channels (Metro and ntv7), one cable station (MegaTV) and one satellite station (Astro) had emerged. Metro and MegaTV have since fallen by the wayside, largely due to the 'Asian meltdown'. It is noteworthy, nonetheless, that Metro, ntv7, MegaTV and Astro were all established in the space of three years (1995–8), just before the meltdown.

Unfortunately, ownership of the new stations was – still is – very much in the hands of cronies of the ruling coalition (Nain and Anuar 2000; Nain 2002) and the industry does not look as if it is becoming any more democratic, allowing greater representation in terms of ownership and in terms of views expressed. The ban on private satellite dish ownership still stands – only 0.6 metre parabolic dishes can be used by consumers to receive signals from only the Measat satellite. As for television programming, while the number of broadcast hours certainly have increased, nothing much has changed in terms of variety. For example, genres like game shows, soap operas and musicals, whose origins lie elsewhere, are imported, shamelessly copied, even reformatted, to cater to local audiences. Hence, it is a case of much of a muchness.

Nevertheless, some outlet was needed for expressing the anger, frustration and disgust felt by those who believed that the country was in dire straits and badly in need of reform, among whom were educated, technically-savvy individuals who had all but given up on the government-controlled mainstream media but clearly saw the potential of the Net. Indeed, despite the fact that computer penetration is still low among the Malaysian public, and despite the fact that access to and usage of the Net are even lower presently, *Reformasi* groups and others nonetheless opted to utilise it. It is also because the regime has thus far promised to keep the Net relatively free and unregulated in an attempt attract foreign investors to Mahathir's pet project, the Multimedia Super Corridor. Hence, almost immediately after Anwar was detained, pro-Anwar and *Reformasi* websites spread rapidly over the Net. At their peak, these websites numbered more than fifty, although the quality and credibility of the news provided by many of these sites were as questionable as those provided by the mainstream media.

Into this scene has arrived Malaysia's first web-based daily newspaper, *Malaysiakini*. Launched on 20 November 1999, just prior to the general elections, *Malaysiakini* was initially funded largely by the Southeast Asian Press Alliance (SEAPA). It describes itself as 'an Internet media project featuring independent news coverage, investigative journalism and in-depth news analysis...conceived by journalists unhappy with the sorry state of our mass media.' (The website address is <http://www.malaysiakini.com>.) Within a year of its launch, *Malaysiakini* received rave write-ups in international

newspapers and magazines such as the *Far Eastern Economic Review*, the *Wall Street Journal* and the *Australian* and won numerous international awards, the most recent being the International Press Freedom Award, which was awarded to its editor, Steven Gan.

On 8 August 2000, the day the verdict of the Anwar trial was reached, *Malaysiakini*'s readership reached an all-time high of 319,000. Currently, its daily readership lies at a constant 116,000, a very decent number given the state of computer use and ownership in Malaysia and given the fact that *Malaysiakini* is still a relatively young entity. Even more recently, other *Reformasi*-inclined and professionally-run news websites, such as *Agenda-Malaysia* and *RadiqRadio* (web radio), have emerged to supplement *Malaysiakini*, although *AgendaMalaysia* has since folded, to be replaced by *AgendaDaily*.

It would seem, therefore, that the battle for media and information control is set to take on a new dimension due to the impact of web newspapers like *Malaysiakini*. New, often alternative, discourses have emerged. It is still uncertain what the outcome will be, and whether this will spread to other media, including television. But the spark has been lit. It would be foolhardy for the mainstream media to disregard the growing discontent among Malaysians, who not only wish for greater transparency and accountability from the regime, but also a more independent form of journalism from the country's media.

It needs to be added as a postscript, however, that the 11 September 2002 attacks on the New York World Trade Centre and the Pentagon changed things in Malaysia. Thus far it has provided the regime with the excuse – and apparent legitimacy – to clamp down on dissent, to tighten control, to further constrain civil society activities, in the name of making Malaysia a 'moderate Islamic nation'. But that is another story, to be told in another forum.

Conclusion

By focusing on the subject imagined in the Malaysian broadcasting legislation we have attempted to show how the legislature imagines the relationship between broadcasters, their audience and their market. The analysis has outlined the scope cultural subjects might have to contribute to civil society. Regulation based on ideas of preserving law and order, and legislation which speaks *for* cultural subjects provides very limited scope for the media and its audiences to develop a public sphere which contests the hegemony of the dominant regime and cultural order.

Despite its progressive language, the Communications and Multimedia Act may not be instrumental in promoting civil society in Malaysia. That is because the C & A Act seems more attuned to commercial and industry development than social and cultural development, and because the government has not dismantled the structures of unfairness and repression that

have been so influential in Malaysia. It is significant that when the new Act was introduced, the press was left out of consideration, even though convergence is as important in the newspaper industry as it is for the electronic media. The notorious Internal Security Act (1960) and the Printing Presses and Publications Act (1984) remain in force and have been utilised in maintaining a compliant press sector in Malaysia (McDaniel 1994: 92–8).

In Malaysia, despite some promising signs during the economic crisis and the national election in 1999, civil society has hardly engaged with television regulation because the lead has been taken by government and has been articulated in terms which equate IT development with national development, indeed, with the very idea of modern Malaysia. Thus it is harder to prise broadcasting regulation apart from the construct of the nation, and frame an oppositional discourse around developments which seem so clearly progressive. The only cavil, it seems, can be over the *distribution* of the new goods and opportunities, not the project itself. In part this may be linked to the very strong aura which the idea of the nation and the national interest have in postcolonial states such as Malaysia. Nationalism delivered the nation from colonial oppression, and opposition to the state is constructed as opposition to the nation (Nair 1999).

The IT project in Malaysia is perhaps best understood as a kind of genetically modified implant. Once established and flowering, the future effects of the IT transformation are likely to be unexpected and profound. Civil society, bound into the media both formally and in terms of the diffusion of communicative and interactive capability, creates new people out of the new media, turns the nation state and its political processes inside out, and facilitates scrutiny and knowledge. As Scott Lash and John Urry put it, the ‘dissolution of collective identity which [new communication media promote] can lead to the development of more universalist identities of communicative rationality and the creation of public spheres in Habermas’ sense’ (1987: 297).

Malaysia has not experienced the comprehensive challenge to the dominance of the regime that Indonesia has since former president Soeharto resigned. Even so, the state has opened up opportunities for constructive civil society input in the television sector through the role of the Communications and Multimedia Commission and the creation of voluntary industry forums, even though, as we have shown, there are serious tensions inherent in two of the forums. But these apparently progressive moves mask another reality, namely, that the moves are premised on redefining the national interest in economic terms, on the assumption that the nation state has to be integrated into the global order to be successful, to survive. The shift is, in part, an expression of a sense of failure and unease with the official national cultural project which sought to shape the nation since the 1970s. But long-held distrust of foreign media has not disappeared, and political investment in local, indigenous cultural values and processes of the national community continues to be a high priority. We can understand

the Janus face of Malaysia's media policy as a portrait of fear – fear of the globetically modified products, services and lifestyles that the information and communications industry increasingly circulates in a Malaysia premised on a postcolonial politics of cultural uniqueness (Yao Souchou 1994).

Under these circumstances, globally aware Malaysian citizens may come to test the reactionary definitions of Malaysian identity and national development. Processes of governance will be articulated in global terms and under global scrutiny, and it is here that the rub is likely to be felt. While globalism is appropriated for nationalist objectives, the endusers of the infrastructure are not anchored in the bounded space of the national territory in the way the MSC is. New social movements are increasingly using electronic communications to share ideas of belonging (Wong 2000).

The imagined subject may not assume the identity and subject position determined in the regulatory discourse. The subject may become more engaged than simply an enduser and consumer. The potential is there for the lifeworld to expand beyond the choices imagined by the national cultural project. Global communications deterritorialise culture and provide a repertoire of discourses for the redefinition of local issues. In Malaysia, as elsewhere, the new media facilitate participation and the reinterpretation of authoritative discourse (Eickelman and Anderson 1999), and this is unlikely to be simply depersonalised, mediated participation. In countries where PCs are not part of every household, the Habermasian coffee shop returns in retro fit: Malaysia's cyber cafés are crowded with young Malaysians looking for and exchanging news of controversial issues such as the Anwar case on the cafés' PCs. It is in these public spheres and online that new identities and discourses will develop to challenge the economic and regulatory discourses which, for now at least, appear so influential.

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3 Civil society in charge?

Television and the public sphere in Indonesia after *Reformasi*

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Television was introduced to Indonesia in 1962 as part of President Sukarno's flurry of nationalistic 'symbol wielding' associated with the Fourth Asian Games (Feith 1963). Televisi Republik Indonesia's (TVRI) legal status as a creature of the president was reinforced further in Presidential Decree #27, 1963, when it was absorbed after the Games into the 'Spirit of Sukarno Foundation', a highly personalised institution under the direct control of the President. TVRI was established as a Foundation in its own right on 20 October 1963, with the President as General Manager (Presidential Decree #215, 1963). Article 3 nominates TVRI as the sole organisation authorised to establish and develop television stations in Indonesia, a highly significant provision which made the commercial broadcasters established in the 1990s dependent on TVRI. TVRI's status as an activity of the TVRI Foundation was not formally revoked until the enactment of Broadcasting Law #24, 1997, although in administrative practice it came under the control of the Department of Information in 1966.

Established by Presidential Decree, constitutionally, but without the higher authority of a parliamentary approved law (*undang undang*), from 1962 to 1966 TVRI can be understood as a manifestation of presidential power based on the 1945 constitution which gave scope for the president to act almost as if he were a traditional ruler 'exercising control through a patrimonial bureaucracy backed by military force' (Lindsey 1999: 7). Informed by a transmission model of communication and development communications theory, TVRI was intended to do something *to* society, and was clearly part of the state apparatus (McQuail 1994: 131). In these early years, no consideration was given to the institutionalisation of non-state actors in managing or guiding the service.

In this discussion I explore the shifting intersections of state and social interests in the communicative potential of television in Indonesia. My focus is the regulation of television as a site of contestation over the role and function of television in the public life of Indonesia. I look at regulation not simply as a repressive process but as an historical process involved in the discursive disciplining of the population, the construction of idealised identities and the articulation of state-society relations. In other chapters you

will read that the concept of civil society has limited meaning and utility for understanding particular polities. In Indonesia, the idea of civil society has been controversial, but has been central to constitutional debate and political life since the beginning of the Republic. I argue that there has been a progressive incorporation of television into the Indonesian public sphere driven by external technological influences, market competition and, more recently, a weakening in the authoritarian power of the New Order and an assertion of the importance of civil society in assisting a transition to greater democracy.

Draft regulation under debate promises to enable television to mediate the aspirations of civil society by opening up access to the public and commercial systems and by institutionalising rights of free speech. The draft seems weak, however, in providing for a dynamic public broadcasting service and in anticipating the convergence of digital technologies. By restricting itself to conventional radio and television broadcasting practices, current legislation leaves a multiplicity of television links and services beyond public scrutiny and vulnerable to colonisation by domestic and transnational commercial service providers more interested in the commodification of information than its contribution to civil society.

After the games: TVRI's two masters

The financial burden of developing TVRI beyond Jakarta prised television away from absolute state control and in 1963 the TVRI Foundation introduced commercial advertising as a way of generating revenue. Advertising bound TVRI to the commercial economy which before long began to exert its own preferences for more entertainment rather than the educational and development-oriented programming favoured by the Department of Information (Kitley 2000: 39). As originally planned, TVRI's regional stations were to be established using government and private sector funds, and local advertising was to generate revenue to support local production which would complement programming provided by TVRI's national production studios in Jakarta. Over time TVRI would have developed a culturally diverse range of programmes responsive to local audiences. But the attempted coup of October 1965 changed all that. The national radio (Radio Republik Indonesia, RRI) and the TVRI stations in Jakarta and Yogyakarta were quickly put under the emergency control of the Armed Forces. Since then, TVRI has operated as a centre-out, national broadcaster dominated by decisions and programming supplied by the national station in Jakarta. The events of 1965 precipitated a change in government and the beginning of the 'New Order' government led by President Soeharto from 1966 to 1998.

During the New Order, state-society relations were rethought in terms of a 'progressive incorporation of civil society into the state' (Bourchier 1997: 176). In the 1970s, the New Order's commitment to economic development

was advanced by a series of measures designed to eradicate opposition and erase state–society distinctions which were considered to be a site of instability. The leading strategist in the prioritisation of development and the depoliticisation, ‘de-ideologisation’ process was Ali Moertopo, Deputy Head of the State Intelligence Coordinating Body, and Minister for Information 1978–83 (Ramage 1995: 86; Jenkins 1997). Moertopo argued that Indonesian society was characterised by three ‘mental outlooks’ (the peasant, the civil servant and the transitionalist) which hindered development planning. Moertopo categorised, classified and readied the objectified Indonesian population for intervention, targeting the mental ‘obstacles’ he identified with well-planned information programmes designed to produce subjects who wanted to change and contribute to the success of development. The depoliticisation process which increasingly reduced social involvement in policy and national affairs involved the gradual corporatisation of so-called ‘functional groups’ of peasant farmers, labour organisations, fishermen, women and youth organisations as a way of delinking political parties from social interest associations. It also forced the amalgamation of nine political parties into two in 1973. The notorious ‘Floating Mass’ legislation of 1975 banned political parties from permanent representation and political activity in rural areas except during the lead-up to national elections.

If the bravura of Sukarno’s institutionalisation of television was reminiscent of the actions of a traditional or absolute ruler, the character of state–society relations under the New Order after 1984 invoked a model of political society–community described first by Aristotle as a

public ethical-political community of free and equal citizens under a legally defined system of rule. Law itself, however, was seen as an expression of an ethos, a common set of norms and values defining not only political procedures but also a substantive form of life based on ... preferred virtues and forms of interaction.

(Cohen and Arato 1994: 84)

A similar vision of political community was introduced into Indonesian political thinking by constitutional and customary law expert Soepomo who had had studied law at Leiden University in the 1920s and absorbed ideas of the German Romanticist movement which idealised the nation as an organic community united by a common ethos and customary law. Soepomo believed that the integralistic or totalitarian state (he used the words interchangeably, and referred approvingly to the Third Reich and Imperial Japan) was ideally suited to ‘the special characteristic and pattern of social life in Indonesia’. In the integralistic state, the state–individual distinction is erased, and there can be no conflict between state and individual law. For this reason, there was no need for any constitutional guarantee of rights of the individual against the state (Muh. Yamin 1959: 114).

Soepomo's ideas were influential in framing most of the 1945 constitution (Bourchier 1997: 162). Mohmmad Hatta, Soepomo's colleague and later first vice-president of Indonesia, argued, however, that the totalitarian emphasis needed to be balanced by reference to the rights of individuals, otherwise there was a danger that, as the recent experience of Nazi Germany demonstrated, unchecked by law, the state could exercise coercive powers over its citizens (Muh. Yamin 1959: 299–300). Some scholars argue that Hatta's intervention successfully introduced a concept of rights into the 1945 constitution, breaking down the idealised unity of state–society relations (Bourchier 1997; Eldridge 1995: 23; Marsillam Simanjuntak 1989). Attamimi (1990: 64–5), on the other hand, argues that Hatta's call for an acknowledgment of citizen's rights was not secured in the final draft. At Soepomo's suggestion, the vaguer word 'freedom' (*kemerdekaan*) was inserted in place of Hatta's preferred 'right' (*hak*) in Article 28 which reads that citizens have 'the freedom to form associations and to assemble, and to publicise ideas through speech and writing and the like in accordance with law'. The recent People's Deliberative Assembly Decree Concerning Human Rights (#17, 1998), restores Hatta's concept of rights in Articles which address information, press and communications issues (see Articles 14, 19, 20, 21 and 42).

These constitutional debates of 1945 were to have a direct effect on the regulation of television and civil society activity when the ideas of Soepomo were revived by New Order political strategists in the mid-1980s. With the launch of the Palapa satellite in 1976, the government extended its normalising project throughout the nation and television became central to the inculcation of ideas of economic development. The number of television sets registered increased exponentially, rising from about 500,000 in 1976 to over 2,500,000 in 1981 (Kitley 2000: 58). Flush with increasing revenues from oil exports, President Soeharto banned advertising on TVRI in 1981, bringing the broadcaster more firmly under the influence of state cultural policy and shifting it to the centre of the state's ideological apparatus. Throughout the 1980s, TVRI became more emphatically the ideological voice of the state. News broadcasts, information and entertainment programmes serenaded the activities of state officials and promoted the state ideology, Pancasila. Cut off from the economy and focused on development and state ideology, TVRI was insulated from direct social influence.

Throughout this period, despite having grown considerably in scale and complexity (by 1987 there were nine regional stations), TVRI's activities continued to be regulated by an ad hoc series of ministerial, and more occasionally, presidential decrees. These executive instruments are subordinate in legal authority to laws made by parliament (People's Representative Council, DPR) and decisions of the People's Deliberative Assembly (MPR). The lack of a Broadcasting Law to match the Press Laws of 1966 and 1982 can be understood as a reflection, firstly, of the state's monopoly of television (and the implicit assertion that with the government in control,

everything is in hand), and, secondly, as consistent with the rhetoric of the integralistic state which idealised a communal ethos and argued that in a community of equals there is no need for positive law. The state's almost complete control over TVRI is the more persuasive explanation of the government's lack of interest in a more formal regime of television regulation. The repressive Press Laws, newspaper bans, gaoling of editors and journalists and the crack-down on video smuggling made it abundantly clear that when its interests were threatened, the Soeharto government would act decisively, conveniently overlooking its rhetorical investment in integralistic ideology (Kitley 2001).

In the late 1980s, however, it was clear that exogenous cultural influences mediated by satellite dishes and smuggled video cassettes appealed to Indonesians and challenged the state's definition and control of national cultural preferences. Realising that these influences were unstoppable, the government declared that it favoured an 'Open Skies' policy and authorised the private use of dishes in 1986 (Minister for Information Decree #167b, 1986). But while the skies opened up for those wealthy enough to buy a satellite dish, they fell in on the circulation of videos, a televisual product within the budgetary reach of most citizens. No fewer than twenty-one separate decrees and regulations were published between 1983 and 1987 to restrict the import of video tapes and develop a tightly regulated domestic video industry. These restrictions benefited distributors of imported films, most of whom were cronies of the Soeharto regime (Kitley 2000: 219).

In this first phase of television in Indonesia, the political, economic and cultural project of the New Order framed and shaped TVRI, suppressing social involvement in the national broadcaster through a mixture of ideological, institutional and authoritarian controls. State ideology and executive regulations effectively withdrew television from the public sphere and offered very limited institutional space for civil society to influence the content and activities of the national television service, despite the fact that many Indonesians saw TVRI as 'their television' because of the broadcast licence fees they were obliged to pay (*Suara Pembaruan*, 24 August 1990).

Since the first three liberal years which ushered in the New Order (Uhlen 1997: 138–9), the Soeharto regime has been the target of sustained and wide-ranging criticism. The dissent has been mounted from civil society through student activism, from elite dissidents and intellectuals, educational and religious groups and non-government organisations (Eldridge 1995). Government attacks on the press in 1974 and 1978 were resisted by supporters of free speech, and the oppressive publication permits which the print media were obliged to hold were also the target of community protest (Uhlen 1997, ch. 6; Hill 1994, ch. 2). Compared with the wider social arena, the lack of civil society engagement with television is puzzling. I suggest that the following issues explain the anomaly.

In the first place, in the early years, TVRI's penetration of households was very low, both in terms of number of households and hours on air.

Television only gained any social and economic significance after Palapa, which dramatically boosted its penetration (UNESCO 1999: IV–121, IV–234). Second, it was obvious to all from the very start that TVRI was a government information service. Institutionally, TVRI was managed as a Departmental function, and there was limited reference to parliament or any other public forum where TVRI's policies and budget were subject to public scrutiny. TVRI had limited use value for pro-democracy actors interested in public, rational/critical debate. It was prevented from mediating important democratic events such as election campaigns, and development communications theory promoted a generally uncritical analysis of national events. The only purchase community groups had on TVRI was to complain about standards of violence and morality represented in imported programmes. As these criticisms were focused on imported culture, in a backhanded way they served to support the government's cultural values. Third, there were no institutional arrangements which allowed non-state actors to influence TVRI's policy and practice. Finally, the Department of Information was very successful in developing strategies which operated to discipline media practitioners and normalise development communications and Pancasila media practices. The 80,000 Discussion Groups the Department established in rural villages, for example, 'were important instruments in a strategy to manage public debate and sustain government authority' (Quinn 1996; Kitley 2001).

Even so, government domination of television was countered by the interpretative activity of audiences and the mediation of the world beyond Indonesia. TVRI's programmes opened up a transnational public sphere for village audiences across the archipelago. Once the first satellite earth station was commissioned in 1969, viewers were able to watch a random and probably puzzling flow of international sporting events, the Apollo launch, the meeting between Soeharto and President Nixon in 1970, boxing matches, World Cup finals, and a live broadcast of the Asian Games from Bangkok. These transnational images mediated ideas and different ways of living to thousands of households, continuing but dispersing more widely and more intimately than ever before the centuries-old interpenetration of local cultural traditions with the aspirations, beliefs and products of others beyond the archipelago. Audience interpretation and images of a world beyond Indonesia most likely contributed to the first fissures in the New Order's seal on the public sphere.

Deregulation and the end of TVRI's monopoly

In the late 1980s, a general liberalisation in the economic sphere (Hill 2000: 17) spilled over into the monopolised world of television. The unwelcome but unstoppable entry of exogenous cultural content mediated by electronic communications prompted the government to meet the public's desire for

more entertaining television by introducing commercial channels. In the space of just five years, from 1990 to 1995, licences were issued by the TVRI Foundation to five commercial television operators (Table 3.1). But this was in no way a liberalisation of the public sphere. Licences were issued without any public tender process and were awarded to close family or cronies of the Soeharto family. In addition, the new channels were prevented from contributing significantly to public critical debate by regulations which required them to relay TVRI news bulletins and other state broadcasts, and forbade them to produce their own news. The new channels were expected to complement, not challenge, the normative work of the state broadcaster TVRI. Their legal status reinforced their dependent position. Presidential decree #215, 1963, which nominated the TVRI Foundation as the sole authority permitted to present television, became the legal means for licensing the commercial operators and representing them as extensions of TVRI. Their dependent status was further reinforced by the stipulation that they had to remit 12 per cent of gross advertising revenue to TVRI. Ostensibly part of a freer market, the new channels were hardly autonomous, and were constrained by regulations intended to depoliticise the public sphere.

Even though the introduction of commercial television was a way of domesticating global culture intruding into the national territory, state authorities viewed commercial television with some apprehension and proposed that commercial operators should be located in regional centres and broadcast locally. Minister of Information Decree #111 of 1990 limited general broadcasters to regional capitals, but authorised the commercial educational channel Televisi Pendidikan Indonesia (TPI) to broadcast nationally. It was not long, however, before the other channels demanded the same level of market access. Ministerial Decree #04A, 1993, reversed #111 and created a two-tier structure, providing for five national network broadcasters located in Jakarta, and restricting other licensees to provincial centres with only a local reach.

Under the pressure of competition, however, commercial television began to re-imagine its audience, distancing itself from the unitary constructs of the New Order cultural project and addressing its audiences in terms of commercial demographics. This acknowledged that the television audience

Table 3.1 The introduction of commercial television in Indonesia

<i>Television Events</i>	<i>Date</i>
Commercial TV introduced	1990 RCTI, SCTV
	1991 TPI
	1993 ANTEVE
	1995 IVM (Indosiar)
Cable and satellite services	1989–90 RCTI as Pay TV

was diversified, that it was alert and critical, and that it had its own interests and tastes. And while it is an exaggeration to say that commercial television ascribed its viewers rights of free speech, freedom to circulate opinions and comment on issues of public concern, it did prise apart the idealised unity between the state and society which the New Order had promoted through ideologies such as integralism and the family state. But the contribution commercial television makes to intensifying the public sphere is always overdetermined by commercial objectives. Far from positioning themselves in the market as credible, constructive channels of public debate, the new channels chose instead to create a pseudo-public sphere of culture consumption (Habermas 1989: 162). Talk shows, business dialogues and political panel discussions have the appearance of rational, critical debate, but are better understood as the commercialisation of the private sphere. As Habermas argues, the professionalisation of debate 'becomes one of the production numbers of the stars in radio and television, a saleable package ready for the box office. ... Discussion becomes formalised and ... loses its publicist function' (*ibid.*: 164). The banning of charismatic Wimar Witoelar's interview program *Perspektif* on SCTV in September 1995 once it appeared to be getting serious and investigating issues of social importance is a regrettably apt illustration of Habermas's point in the Indonesian context (Witoelar 1998).

Commercial operators tried to edge each other out in the ratings race by developing news programmes which they represented as 'soft news and current affairs', but which were a direct challenge to TVRI's outdated and unpopular news bulletins. And while television news was not as vigorous in chasing stories which were critical of the government in the way the print media was (Wardhana 1997), commercial news programming did open up a discursive space for the discussion and debate of family and socially oriented issues such as public housing, environmental pollution, food contamination, HIV AIDS and the like. Similarly, the higher proportion of imported programming and commercial television, and its greater reliance on live crosses both domestically and internationally connects its audiences to a multiplicity of networked spaces of communication which are not limited to the national territory. Thus in various unintended ways, commercial television has helped break up the ideal of a unified public sphere and the fiction of a 'territorially bounded republic of citizens striving to live up to their definition of the public good' (Keane 1998: 169).

The Broadcasting Law debate

In the early 1990s the increased availability of commercial television programming created a climate of controversy over issues of ownership and control, content and policy. Community dissatisfaction was usually expressed by critical articles in the press, but rarely did dissatisfaction lead to any active demonstration. However, when television licence fees were

suddenly raised in 1992 after fees collection had been privatised and awarded to a company linked to the presidential family, a disgruntled group of viewers banded together with a coalition of consumer advocates and took to the streets to protest (Kitley 2000: 271). There was also a particular concern among children's welfare organisations over the apparent lack of regulation of violent and sexually explicit imported films considered incompatible with Indonesian cultural values.

The stations' defence, that their programmes had all been passed by the government's own Film Censorship Institute, seemed only to underline the perception of disarray in the regulation of television broadcasting. The commercial channels were also keen to speed up the government's legislation so that the question of whether or not TVRI might be authorised to carry advertising could be resolved. Thus, for different reasons, both the commercial licensees and the public had a common interest in lobbying government to speed up final drafting of the Broadcasting Law so it could be more widely debated.

Even though there was a genuine interest in putting greater legal certainty into broadcasting activities, the outcome of the debate confirms Anders Uhlin's argument that in the mid-1990s a transition to a more democratic regime had not started (1997: 155). Indonesia was in a pre-transition phase, characterised by increasing pressure from below for democratic reforms and by conflicts within the ruling elite (*ibid.*: 164). President Soeharto's historic intervention in the passage of the Broadcasting Law bears out Uhlin's comment that in a pre-transition period, 'the limited political openness depends upon the provisional tolerance of the authoritarian leaders' (*ibid.*: 158). In this instance, the President demonstrated limited tolerance for measures which inhibited the business activities of his immediate family.

The draft became the focus of the most public and intense discussion of television since its introduction. The President's unprecedented decision to withhold his signature and return the Bill to the House so that Articles concerned with duration of licences, advertising on TVRI and broadcast reach could be 'improved' made Broadcasting Law #24 then, and since, an emblem of New Order's desire to hang on to its authoritarian values and practices. Since 1998, the Law has become a rallying point for a wide group of intellectuals and community associations arguing for a new law following the collapse of the Soeharto regime. At the time of writing, even though Law #24 does not have the confidence of the broadcast sector, it remains in force until its replacement is passed.

Social and legal principles of Broadcasting Law #24

Broadcast Law #24 seems intent upon preserving a degree of government control over television broadcasting based on assumptions about the *national* character of broadcasting at a time when new media technologies and markets contest borders and frontiers (Morley and Robbins 1995: 176).

The Law establishes a government coordinated/directed broadcasting system in which national cultural objectives are given priority above the development of a balanced public and commercial broadcasting culture. The liberal discourse of rights to free speech, to circulate opinions and to access information is not part of the Law, even though the Reference (*Mengingat*) section of the Law reminds readers of the free speech provisions of Article 28 in the 1945 Constitution. Indeed Article 11 appears to contradict Article 28 of the Constitution as it forbids the establishment of private sector broadcasters exclusively concerned with publicising a particular political group, ideology, religion, individual or group. The anti-pluralist character of the Law extended even into what languages could be broadcast. Understandably enough, the national language was given a privileged position, but the regulation that dialogue in languages not part of the 'Indonesian family' had to be dubbed into English, and subtitled in Indonesian, baffled most commentators and appeared chauvinistic and unaware of the historic and contemporary interpenetration of cultures which has contributed to Indonesia's rich diversity (Heryanto 1997; Loven 1999).

Deregulation and civil society

During the deregulation period television was subject to greater public scrutiny than ever before. However commercial television failed to open up the public sphere to any great extent and amounted to little more than the colonisation of the television market by the state. It became the focus of public debate over cultural values and identity, children's programming and sex and violence. Civil society action flared briefly over controversial issues such as licence fees, advertising and the employment of foreign workers in the production of domestic programmes. And while direct action over television was rare, the debates did politicise television and increased pressure on the government to produce a broadcasting law. Even though the pressure from below for greater social involvement in policy was strong, Broadcasting Law #24 was uncompromising in its anachronistic attitudes to control. It made no room for social participation in policy making on civil society issues such as rights of access to information, freedom of expression and circulation of opinion, the moral and cultural content of (particularly imported) programmes, and special provision for children in terms of content, dedicated hours, and compulsory and uniform classification of programmes. Law #24 can be understood as emblematic of the pre-transition phase, a time when, despite the best efforts of a wide range of influential figures from civil society and some who were part of the political elite, a reactionary government resisted making any substantial attempt to balance the influence of the political, economic and civil society spheres in broadcasting policy and management.

The reform period of the late 1990s

The Asian economic crisis which began in Thailand in May 1997 spread quickly to Indonesia in the same year, sending the *rupiah* into a steep dive, and causing capital flight and deep financial crisis by December 1997 (Hill 1999). The IMF's overly eager policy of bank closures, and President Soeharto's intervention in favour of family and friends hit hard by the crisis, quickly precipitated a parallel crisis of confidence in the political sphere and finally forced Soeharto's resignation in May 1998. Vice President B.J. Habibie was sworn in as president and led the country until he lost office in June 1999 in the first democratic elections since the 1950s (Liddle and Mujani 2000). In those elections, the Indonesian Democratic Party of Struggle (PDI-P) led by Megawati Sukarnoputri won 34 per cent of the national vote and formed a coalition with the National Awakening Party (PKB) to lead the country with Abdurrachman Wahid, leader of PKB, as President.

While the immediate cause of the overthrow of the New Order was contagion from an external economic crisis, the regime had been under increasing political pressure from a variety of non-government, pro-democracy forces since at least 1994, when the popular magazines *Tempo* and *Editor* and the tabloid *DeTik* were banned, and more intense pressure since 1996 when the government intervened in the internal affairs of the Democratic Party and engineered the removal of Megawati Sukarnoputri as party leader. In the 1990s, there was an increased radicalisation of civil society (Eldridge 1995; Uhlin 1997). Student activists, elite intellectuals and a variety of newer, more radical NGOs and associations have 'helped put the struggle for democracy firmly on the agenda in Indonesia' (Uhlin 1997: 116). Some associations have formed around media issues: the Democratic Forum with Abdurrachman Wahid as leader was established in 1991 in protest against the closure of the magazine *Monitor* and the gaoling of its editor Arswendo Atmowiloto. The Indonesian Solidarity for Press Freedom, Women for Press Freedom, the Institute for Studies of the Flow of Information, and the Alliance of Independent Journalists are all high-profile civil society associations established since 1994 to promote debate on media issues and rights of free speech (Uhlin 1997, ch. 5).

In the late 1990s an increasing number of articles and books about civil society written by Indonesian authors was published in Indonesia. In June 2001 I collected no less than thirteen books published by local presses which addressed civil society from a variety of perspectives using phrases such as *masyarakat madani* and *masyarakat sipil* to adapt the concept of civil society to the Indonesian social situation. The black hole in all of the titles collected was the lack of any attention paid to the concept of the public sphere and the role that the media might play in promoting civil society in Indonesia (Hikam 1996; Rahardjo 1999; Ahmad Baso 1999; Schumann 1999; Sufyanto 2001).

Muhammad Yunus, former General, and Information Minister in the Habibie government, embarked on a series of media reforms which were as popular as they were unexpected. Yunus cancelled the notorious printing and publication permit (SIUPP) (Hill 1994: 48), issued over twelve hundred new print licences, and approved the issue of five new commercial television licences (Table 3.2) and more than nine hundred new commercial radio licences. Whereas for years there had been only one officially recognised journalists' association, there are now twenty-four (Minister For Information Regulation #02, 1998; Suranto, Setiawan and Ginanjar 1999: 24–5). Commercial radio stations' obligation to relay state news was reduced to three bulletins a day (Minister for Information Decree #134, 1998). Radio and television stations revelled in the opportunity to produce their own news bulletins and present openly critical analyses of current affairs. In 1998–9 both radio and television played an increasingly important role in mediating aspirations for greater democracy in Indonesia. Unfortunately, there is no survey data to support this claim, but my interviews with representatives of the television and radio sectors in June 1999 confirmed that current affairs chat shows, the engaging pro-democracy Community Service Announcements produced by the Visi Anak Bangsa Working Group (Kitley 2001) and interactive chat shows had become the most popular television programmes. Liddle and Mujani note that television imagery has been increasingly important in the establishment of new democratic party systems in Spain, the former Soviet Union and in Eastern Europe, and suggest that television campaigns in Indonesia helped make national political figures recognisable nation wide (2000: 36).

In this progressive atmosphere of reform, leading figures from the Indonesian Newspaper Publishers Association established the Indonesian Press and Broadcasters Forum (MPPI) to lobby for changes in legislation governing the media. Almost as if MPPI feared that *Reformasi* (reform) might turn out to be as ephemeral as the fabled *wijayakusuma* flower that blooms only once a year at night, MPPI Chair Leo Batubara said that he and his colleagues had to seize the moment of Reformasi to put in place freedoms which had been eroded over the period of the New Order (personal interview, 10 June 1999). The forum has included in its meetings

Table 3.2 New commercial stations established with licences issued in the Habibie period

<i>Television station</i>	<i>Broadcasts began</i>
Metro TV	February 2001
Transformasi TV	October 2001
TV Global	October 2001
TV-7	November 2001
LATIVI	December 2001

academics, media studies students, politicians, journalists, Telecommunications representatives (MASTEL), the Institute for the Study of the Flow of Information (ISAI), the Alliance of Independent Journalists (AJI), and international NGOs working on media reform such as Internews, The Asia Foundation and the Friedrich Ebert Foundation.

MPPI lobbied successfully to have freedom of information elevated to the status of a human right in the People's Deliberative Assembly (MPR) Decree #27, 1998 (Articles 20, 21 and 42), and vigorously supported the passage of the new press law (Act #40, 1999, Concerning the Press) in the parliament. MPPI has been equally active in lobbying for the repeal of Broadcasting Law #24, and was successful in securing the agreement of parliamentary representatives to present a draft bill from the floor of the House to initiate the legislative process. This was only the fifth time that the parliament had initiated legislation since the beginning of the New Order. Other drafts and position papers have been presented by the association of commercial television operators, the Department of Communications, MPPI, the Association of Indonesian Commercial Radio Broadcasters, Article XIX/UNESCO and TVRI.

The loose coalition of interests championing legislative reform is drawn mainly from the media industry and from the political community (parliament). Although the reforms are intended to strengthen civil society processes and contribute to a more open public sphere, somewhat surprisingly the impetus for these reforms has come from the economic and political spheres and not from civil society. The international NGO Internews has been very active in supporting MPPI in its push for legal reform, but has disquieted some other groups because of the Memorandum of Understanding it has signed with Parliamentary Commission I, a relationship which some believe blurs Internews's status as a civil society association.

It is also surprising that the industry interests did not write their draft legislation in a way that projects a forward-looking media industry. They seem caught up in a dated liberal market ideology of freedom of the press, and have lost sight of the perhaps equally important principle that there needs to be state protected and enforced rules which maximise opportunities for a dynamic, competitive industry. Such regulations are vital for protecting the community and the industry itself from domination by powerful media monopolies (see Lewis, this volume, and Porter 1993).

The commercial television operators' draft submission makes no reference to media convergence. Their interest in maintaining a segmented industry in the face of convergence suggests that segmentation may serve the interests of established players. If this is the case, then the coalition of industry groups pressing for media reform may have a commercial, as much as a civil society agenda in their proposals to restructure broadcasting. In February 2001, commercial television operators made personal representations to the leader of the House over their objections to cross-ownership

provisions in the draft broadcasting law (*Kompas* 23 and 28 February 2001). The Association's objection to the cross-ownership rules was based on their claim that convergence of media technologies rendered such rules obsolete. Entirely self-serving, their actions perpetuate the personalised patrimonial politics which, in part, brought down the New Order government, and overlook the lack of any reference to convergence in their own draft submission.

The phantom of the new order

On Wednesday, 14 February 2001, hundreds of broadcasting practitioners spread banners and chanted slogans outside parliament where the draft broadcasting bill was being discussed (*Kompas Cyber Media*, 14 February 2001). One banner denounced the draft bill as 'a zombie of the New Order which had come back to life'. The demonstration was organised by a coalition of commercial television and radio associations and the high-profile independent journalists association, AJI. As I read the draft, it is far from a recreation of New Order policy. Even so, the broadcasting sector constructed in the bill is far less substantial and socially empowering than expected from a reformist government. The draft bill articulates and guarantees citizens' rights of freedom of opinion, and rights to disseminate and use information as a manifestation of community sovereignty, social justice and community welfare (Articles 2 and 3). It establishes an Indonesian Broadcasting Commission at arm's length from the government to oversee allocation and use of the electromagnetic spectrum, to protect rights of access to information and to regulate competition. The Commission is composed of an Executive and an Advisory Council with members drawn from the broadcasting industry and other non-government associations.

New Order nation-building rhetoric has been put aside and issues of censorship, broadcast language, children's programming and domestic production quotas have been left open, and are subject to ongoing adjudication by the Commission in line with principles set out in Articles 2, 3 and 4. Like all drafts, it has weaknesses which may or may not be subject to further revision. The bill is far too narrow, restricting itself to radio and television broadcasting, understood in national terms, and does not engage with issues of streaming from either source. Without substantial revision, the bill will prove inadequate in regulating the complexities of modern broadcasting practices which flow from convergence and transnationalisation. More generally, many of the bill's Articles are worded very vaguely and will not provide stakeholders with sufficient certainty in their activities. And in what can only be an oversight, the draft leaves out any consideration of offences against the Act.

A more significant weakness is that the draft deals superficially with the role and functions of the public broadcaster. The community can have little confidence that TVRI will help create a diversified, pluralistic television sector by counterbalancing state power and the commercial priorities of the

other channels. Nor is there any suggestion that TVRI's regional stations will be encouraged to mediate the aspirations of regional audiences and in that way help break up the legacy of what Richard Tanter called the New Order's 'totalitarian ambition' to create and dominate a unified national public sphere (Tanter 1990). This is surprising as both the Habibie and Wahid governments have legislated for greater regional autonomy backed up with tax legislation (Law #22, 1999, Concerning Regional Governance, and #25, 1999, Concerning Equalisation of Finances Between Central and Regional Government). The draft bill's failure to articulate an innovative and constructive civil society role for TVRI is not reassuring given the anachronistic language and vision constructed for TVRI in its Vision and Mission statements discussed below.

TVRI as public broadcaster

The Abdurrachman Wahid government dissolved the Department of Information by leaving Information out of its ministerial portfolios in the Reform Cabinet of October 1999. Cut adrift, TVRI's status was resolved in 2000 by government decree (Peraturan Pemerintah, PP, #36, 2000) which established it as a wholly government-owned enterprise (*Perusahaan Jawatan, Perjan*) under the administrative and financial control of the Minister of Finance and the supervision of an Advisory Council which reports to the same minister. Managing Director of TVRI, Chairul Zen, welcomed TVRI's new status which he said gave it complete editorial independence of government and recast TVRI in the role of a public broadcaster (personal interview, 4 December 2000).

The provisions of PP#36 offer little support for an independent TVRI. Senior officers of TVRI are appointed and can be dismissed by the Minister for Finance without reference to parliament. Advisory Board members are all appointed, and are subject to dismissal, by the Minister for Finance. The Advisory Board reports to the Minister, includes no community representatives and has no public function. The lack of community representation on the Advisory Board binds TVRI closer to the government than the public, its putative reference group. Sealed off in this way, it is hard to imagine how TVRI can shift easily from its function as a government mouthpiece to become an independent, neutral and autonomous broadcaster focused on the needs of the community (Article 6, PP#36). TVRI is more or less completely dependent on the government for its funds, and has less independence in raising funds than it did when it was a foundation.

The new Vision and Mission Statements which TVRI has recently drafted retain language and ideas which are ominous echoes of the New Order cultural project. In the Vision statement, TVRI is represented as a source of reliable, strategic information which will enhance the quality of intellectual life, and guard and protect national culture. TVRI is positioned as a source of already determined, authoritative information which will have certain

effects on the national population. It is a model of a national broadcaster based on a discredited linear transmission of information model which assumes a passive audience and a focus on certain already-determined goals. These points are reinforced in the Mission statement. Statement 3, for example, 'To reinforce the spirit of nationalism in the unitary Republic of Indonesia' (*Mempertebal semangat nasionalisme dalam Negara Kesatuan Republik Indonesia*), and 6, 'To boost the resilience of the national culture' (*Meningkatkan ketahanan budaya bangsa*), are statements which on their face are unaware that the very ideas of a unitary republic and a national culture are deeply problematic and contested in the Reformasi period (*Visi dan Misi TVRI*, undated typescript).

Conclusion

Nearly forty years since it was introduced, television in Indonesia takes its rightful place beside the assertive and more secure print media as both a means and a factor in civil society. Dominated by state authorities and cronies of the political elite for thirty years, TVRI and, more recently, commercial television were structurally inhibited from publicly articulating the diverse aspirations of associational groups. The ad hoc, non-accountable regulatory practices which served the interests of the political elite have been slowly fractured and dismantled by a combination of technological, economic and political factors. The expanded television sector is on the brink of a new period when, as the most popular and ubiquitous medium of popular culture, it might more universally and more equitably provide spaces for the public articulation of diverse perspectives by citizens who are by law accorded equal rights to represent and publicise their social, cultural and political interests and concerns. The key to television playing an expanded role in civil society is the draft Broadcasting Law. By choosing to ignore the convergence of digital technologies in their definition of broadcasting, however, an inexperienced and timid legislature risks the Law becoming obsolete in one or two years, and leaves a wide variety of the more socially accessible televisual products and services open to colonisation by market forces whose interests are more in the commodification of information rather than its civil society potential.

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4 Civic or civil contingencies?

Regulating television and society in Singapore

David Birch and Marianne Phillips

Civil versus civic society in Singapore

Singapore has changed dramatically in the last forty years, moving in the 1960s and 1970s from domestic import substitution to low-cost export-oriented goods. Then in the 1980s developing a regional financial and business hub and now increasingly positioning itself as an exporter of capital and expertise (Courtenay 1995: 90). With exceptionally high economic growth rates most years, a GNP per capita of US\$6,000 more than Australia and three times Australia's annual average growth, Singapore has attracted a high percentage of foreign direct investment. Despite exhibiting similar advantages to Australia in terms of a well-educated workforce, competitive pricing, developed transport and telecommunications and citizens from culturally diverse business, family and personal networks throughout the region, Singapore's media and resultant civil and civic development has not been as progressive and liberal as Australia's and indeed has not kept pace. So it would appear that state existence, security and prosperity as desired ends for Singapore do not necessarily rely on an equal strengthening of the public sphere, or at least this is not evident to date.

The question most often asked, of course, about Singapore's generally consistent economic growth is, 'at what price?' and many observers of Singapore rarely get beyond the somewhat simplistic assumption that the price is at the cost of a well-developed civil society where individuals can network in one form or another to voice dissent, mobilise opposition to one-party power and change society. This concern extends back to the early decades of Singapore's nation-building preoccupation, and as Singaporeans continue to claim, an inability to control information and ideas (Tremewan 1996). The Working Committee (TWC), for example, established a few years ago as an informal network of committed Singaporeans interested in the development of civil society in Singapore, has run a number of forums on the issues (TWC 1999), including a significant conference on civil society in Singapore in October 1999 (*focas* 2001: 1.1, 1.2).

But it is not easy. Gillian Koh and Ooi Giok Ling suggest that it is remarkable in such a 'tightly controlled democracy' (see Koh and Ling 2000:

5) that interest groups, such as The Nature Society (Singapore), the Association of Women for Action and Research (AWARE) and the association for Muslim Professionals (AMP), have survived at all let alone made attempts to push the boundaries of policy and political engagement. Most of these groups, however, simply provide a forum for alternative voices rather than action or change, or operate where the state has promoted discussion of civic concerns. It has even been suggested that this governmental initiative stems purely from governmental self-interest and a realisation that it has over-extended itself in the management of society.

Whilst there have been proactive voices calling for greater civil society participation for some years now in Singapore, they are, in fact, a very small section of a basically compliant and passive population. Media world-wide continues to promulgate the view that Singapore is restrictive, secretive, authoritarian, non-consultative, repressive, closed and impervious to criticism. In short, Singapore is a one-party state with national service, an internal security act which can imprison a person without trial for a periods of up to two years without review, and which, as recent reports in the world press have shown, has no intention of relinquishing these controls (Rodan 2000). There is a widespread perception both within and outside of Singapore that there is a predominant and pervasive culture of fear operating in Singapore – not fear of walking safely in the streets, but a fear of speaking up – a fear of expressing dissent, a fear of critical comment.

This fear is one of the most likely constraints on Singapore's ability to develop fully as a significant regional and global media and IT hub – one of the main aims of current government policy. This fear is also one of the main reasons for the government being responsive, in some ways, in the last couple of years, to calls for greater participation, seen most markedly in the various feedback groups that have been formally set up by government. In October 1999 the Singapore 21 committee was established by the Prime Minister, in his words: 'to suggest new ideas to make Singapore a global city, and the best home for Singaporeans'. What constitutes that best home for *all* Singaporeans and does it involve an active civil society?

Deputy Prime Minister Lee Hsien Loong, in an interview with Michael Shari and Mark L. Clifford under a heading 'Deputy Prime Minister Lee: Opening the Society, Slowly' in *Business Week* (5 April 1999), put it this way when asked 'Do the people need to participate more?':

Yes, we need that. There is a lot more room for participation in civic society. It's something we have to encourage because it's not the way our society has developed. So if we want to shift away from this, and give people more say, then they cannot just express casual views after some drinks in the coffee shop. Hard work has to be put in.

Brigadier General Lee's comments are interesting as he is very protective of the role and power of the government yet, at the same time, he is projecting

a more agreeable and flexible image suited to the foreign media. However, at no point is there discussion of participatory civil society. Indeed the phrase that is used by the Singapore government in place of civil society is the one used in this interview, 'civic society', and that is a very different society to the one generally developed in most sociological understandings of what constitutes civil society.

The economic crisis of 1997 served to renew debate about the relationship between the state and civil society. Contrary to the predominantly negative voices, a small voice is emerging that suggests the possibility and desirability of a paradigm shift that believes in synergistic gains and developmental achievements as a result of state and society complementarities (see Koh and Ling 2000: 2).

The predominant view of civil society, however, like many social justice moves in Singapore, is always interpreted as a threat to the Singapore government, which continually runs the line that any political intervention by any Singapore citizen should be made within the political arena. Therefore, the role of a citizenry that has any sort of voice at all is best controlled within the framework of a civic society, which determines the roles and functions of a citizen for the better good of society overall, than within the framework of a civil society which, for the most part, is less easily controlled. Within Brigadier General Lee's discourse, and that of the government overall, and in their approach to the issues involved in civil society, there is still very little room for manoeuvre outside government control. The culture of control is all pervasive and is the single most important challenge to the development of civil society organisations, and the much broader definitions of 'citizenship' that go with that, within Singapore.

Public sphere and media

Michel Foucault argued that the promotion of the 'existence, security and prosperity of the state as its end, produces the need for a civil society and a strong public sphere which would both criticise the effectiveness and necessity of the development of state policies of intervention and regulation, and in certain instances replace it' (Birch 1998b, 1999 and Birch *et al.* 2001). What constitutes that public sphere in Singapore?

Information flow has generally been from developed, industrialised nations in the North to developing nations in the South (Braman and Sreberny-Mohammadi 1996; Stevenson 1994; Riaz 1997 and Vincent 1999). It is certainly from that direction that grass-roots thinking on civil society in Singapore emerges. Quite the opposite direction from government thinking on the issue (see Ahmad 1995 and Kwak 1996). What we are seeing is a dramatic increase in the liberalisation of information flow and infrastructure in Singapore (and across the whole region, but not necessarily a liberal government attitude) and it is this liberalisation which appears to offer those

in Singapore anxious to 'create' a civil society opportunities not hitherto so openly seen. The question, of course, is whether a liberalisation of communication will necessarily create the conditions in Singapore for the development of a civil society and, if it does, what would that civil society look like?

Jürgen Habermas argues that the public sphere works most effectively for democracy when it is institutionally independent of both the state and society's dominant economic forces. Although he acknowledges such autonomy is difficult to develop and maintain, he still posits this as a goal to achieve. His argument expands to suggest that '[t]here be no restriction on the range of political viewpoints and that resources be allocated in such a way that powerful economic and political actors cannot drown out the ideas of media representing the less powerful segments of society' (Herman and McChesney 1997: 3–4). From this perspective

the media are the preeminent vehicles of communication through which the public participates in the political process and the quality of their contribution to the public sphere is an important determinant of the quality of the democracy. If the performance is poor, people will be ignorant, isolated, and depoliticised, demagoguery will thrive, and a small elite will easily capture and maintain control over decision-making on society's most important political matters.

(*ibid.*)

In Singapore there is a close identification between government (basically as a single political party) and state. The public sphere is not autonomous – separated from political apparatuses of the state (Chua 2000; Birch *et al.* 2001). Quite the contrary: where possible, the state uses the public sphere, particularly the print and electronic media, as a means of consolidating and extending its power, and censoring public opposition – but with ever increasing subtlety and sophistication via a content processing and psychological operation at the self-regulatory level and through strategic operation controls at other levels. This is evidenced in a recent address by the Minister of State for Defence and Information and the Arts, David T.E. Lim, at the Internet Political Economy Forum 2001, 14 September 2001, in which he emphasised good over evil in the government's imperatives for credibility, vulnerability, privacy, security, accountability and the use of Internet Political Campaigns. The media in Singapore generally, as a realisation of the public sphere, despite the appearance of being privatised, is politicised, monopolised and regulated by the state, and plays a central role in promoting the idea of the nation as a homogeneous and unified community, often in very subtle ways (see Chaline Hirano's chapter on Japan in this volume for discussion of similar processes).

Yet an international orientation and many diverse cultural networks have been central to the Singaporean government's economic success (Chua 1985:

30). This is reflected in the communication sector through programme and language diversity. It is imbued with 'natural', 'necessary' and 'realistic' characteristics to satisfy issues of nation-building. This is then ultimately linked to the instrumental rationality for the unrelenting pursuit of economic growth (Chua 1985: 30). How then is this control maintained so as to prevent or curb the growth of an active civil society feeding off an ever-increasing, internationalised flow of information and ideas which is currently seen as counter to the dominant People's Action Party's (PAP) own sectarian interests?

The answer lies with the Ministry for Information and the Arts (MITA), a ministry that deals with government information matters and is the link between the government and the media. Its mission is to make Singapore a 'hub city' in line with national economic imperatives (Foo and Kwok 1999: 270).

Former *Straits Times* journalist Cherian George (cited in Lee and Birch 2000: 12; see also George and Pillay 2000) argues that MITA's role incorporates a strong control and supervisory function determining and enforcing the OB marker concept ('out-of-bounds-markers'). This has strong watchdog overtones that are particularly contrary to the national content and communication imperatives of the people and tends to restrict or prohibit inflow and outflow. MITA deals with government information matters, conducts public communication programmes and manages government press relations. 'It is the main distribution agency for government press statements, ministerial speeches and other information from government departments, institutions and statutory boards' (MITA 2000: 270). It operates as an official information service for news organisations based in Singapore and formulates, implements and reviews policies on censorship and licensing of content. 'The Board of Film Censors (BFC) is a component of the Films and Publications Department [that] comes under the Ministry of Information and the Arts' (MITA 1999).

Regulation and television

The Ministry for Information and the Arts is the central controlling authority, but it is the Singapore Broadcasting Authority that exercises maximum control over television broadcasting in Singapore. There are several divisions and branches of both the Singapore Broadcasting Authority that share control over the ways in which Singaporean television operates. As such, the Singapore Broadcasting Authority is a mediating regulatory system. It links, yet stands between, the state and television broadcasters, thus performing a filtering role. This allows for negotiation and discussion that diffuses the power-subject relationship. In this way, the Singapore Broadcasting Authority becomes an arbiter assisting in dispute resolution and promoting the appearance of openness and democracy

(Hoong cited in SBA 1999). It also becomes an enabling body for the promotion of the medium (see Birch 1996).

The Singapore Broadcasting Authority was established on 1 October 1994 as a statutory board under MITA to promote and regulate the broadcasting industry. Its corporate mission is to make Singapore a dynamic broadcasting hub by providing quality broadcasting to satisfy the vibrant economy and diverse populations (SBA 2000, www.sba.gov.sg). It was formed following the corporatisation of Singapore's broadcasting industry under the Singapore Broadcasting Act 1994 and as the new regulatory body, for all intents and purposes, was to divest power from the state to the new body for control over broadcasting and in response to greater global economic circumstances of the twenty-first century. The 'apron strings' were loosened but not completely cut as the government still retains considerable influence through the allocation of top appointments.

The Singapore Broadcasting Authority licenses and regulates broadcasting services and apparatus. It determines qualities for programming content and contracts and assigns frequencies. SBA monitors broadcasting licence compliance and collects fees. Licences range from free-to-air television and radio, subscription television and radio, through special text, video-on-demand and broadcast data licences. It lists as its objectives:

- To ensure a range of high quality broadcasting services which meet the diverse needs of the public;
- To ensure the adequate provision of public service programmes;
- To help develop national values by promoting desirable broadcasting services;
- To facilitate a conducive environment that will encourage the development of a vibrant broadcasting hub in Singapore;
- To promote the introduction of multimedia and interactive services made possible by the rapid advances of technology; and
- To build an effective organisation that develops and motivates employees to strive for excellence in the services provided.

(SBA 2000)

Singapore is actively using its economic power and knowledge-driven economy to protect its own broadcast industry. It aims to expand into the region through cooperative business ventures. New initiatives, research and development are driving the industry most rapidly in new media, digital, satellite and cable broadcasts into export orientations, and while this is happening Singapore is re-regulating. By this we mean it is not reducing its control but re-regulating to moderate its position in order to maintain internal control yet, at the same time, gain commercial advantages from the broader regional and global liberalisation of communication. Historically, the role of the state, in terms of television broadcast, has gone through three phases – minimal technical control, interventionist regulation and de-

regulation or re-regulation (Kwak 1996). However, as the markets for television grow social influences are becoming more significant. In Singapore, as the populace becomes more educated and informed the demands and expectations from the government increase. This may be a factor in gaining impetus for a redistribution of social power and increased participatory communication. The government is therefore adjusting itself to accommodate these changes and to re-regulate its position of control. To overstate the case, we witness a liberalising at the international external level yet, at the national internal level, an equal and opposite tendency in governmental regulatory control. The traditional role of the state therefore has expanded from simply technological allocation to a multidimensional control over many aspects of broadcasting such as political and economic involvement in the ownership and control of television licences at one extreme to the cultural programming influences at the other (Goonasekera and Ang 2000: 225).

As satellite, cable television and the Internet have opened up an abundance of channels, the argument of spectrum scarcity becomes less convincing as a justification for the state's control over television broadcasting (Goonasekera and Ang 2000: 225). Yet in Singapore's case with satellites requiring state authorisation, and essentially banned for public or general use, together with the government's cross-the-board Internet filtering, then it is clearly evident 'the control' remains with the government.

The state, overall then, still exerts its influence on the development of television in terms of ownership and control through regulation and programming. This directly impacts on media credibility, agenda-setting and effects (Kuo *et al.* 1993: 1). Virtually all aspects of broadcasting are regulated and guided by strict codes of practice (Goonasekera and Ang 2000: 225–6; see also Ang and Yeo 1998). This influence is administered but not enforced through Singapore Broadcasting Authority Regulations. Enforcement is delegated to the higher political ministerial and legal levels, for example, MITA and the relevant appeals boards. In the event that a rule is violated then the perpetrator is subject to suspension or cancellation of licence, relinquishment of licence bond and/or large financial penalties. The penalty scheme for free-to-air television and cable television took effect 1 November 1998. Penalties and courses of action are published in Part XII Offences and Penalties, Singapore Broadcasting Authority Act (Chapter 297) (cited in Ang and Yeo 1998). Although highly unlikely today, in dire circumstances, the state can resort to powers of preventive detention or the special powers for subversive documentation as outlined in the Internal Securities Act (Chapter 143) (cited in Ang and Yeo 1998). Recourse is possible through the Appeal Board. But as Kwak makes very clear, the dominant paradigm of state control of television broadcasting is through a cultural paradigm with law seen as the last resort (Kwak 1996: 308–10). This, of course, has crucial implications for the development of participatory democracy and greater civil society activity.

Corporatisation of the nationalised industry, which was also a public monopoly, was implemented to make the television broadcasters financially and managerially separate. This still allows them free contract for production and transmission services. The reforms separated production from transmission and provided the basis for all the reforms and changes that are occurring today. This was done to achieve a stronger public television and not, as many Singaporeans might have reasonably expected, an atmosphere of liberalism and a greater role for civil society.

Singapore Cable Vision was the smokescreen in this regard, as it was seen as a way of diversifying the supply of television programmes. However, like the terrestrial broadcasters, the state still exercises extensive involvement in the running of its affairs with the SBA regulating 'all aspects of cable television, from the specifications of the cable and trenches to the content' (Ang and Nadarjan 1996 cited in Goonasekera and Ang 2000: 228). In fact, Goonasekera and Ang suggest that the introduction of cable television in Singapore was introduced much more as a disincentive than an incentive for greater information liberalism. The introduction of cable, they believe, was to deter the purchase of satellite dishes while still appearing to provide programming choice (Goonasekera and Ang 2000: 227).

Today, Singapore's state control is rather subtle through an engendering of social responsibility and self-regulation (see Birch 1993 and 1998a). This subtlety is one step removed from the authoritarian impositional style and structure exemplified in the early Schramm developmental model of communication (Schramm, 1964), and, as such, has flow-on effects through the ambivalent uses and approaches in both content production and perception/reception learnt predominantly through reinforcement in practice. (Self)-regulation is left to the television broadcasters in the hope this will improve quality and increase commercialism without destabilising national cohesion and core values. In most models of competitive advantage, the increase in channels would have invariably led to an increase in competition in the areas of programmes and programming. In Singapore's highly diversified channel markets this is not the case. The censorship policy articulates an allowance for free-flow and creativity but preserves social and religious harmony. Societal comment is thus limited to quasi-official channels for viewer complaint or creative input. Nevertheless, with the new push towards privatisation, more boundaries are being pushed in the provision of various programme types and in the search for profits. Homosexual scenes, kissing, bed scenes and rape have provided some sensational examples, and, to a large extent, it is the occasional pushing of boundaries, and the often extensive media coverage that follows them, that rallies the calls for greater civil society activity.

The key to understanding the government's position, and therefore to be able to work for change by understanding that position, recognises that the government in Singapore has chosen to replace the word civil with civic. A good example of this involves a story told by Brigadier General George Yeo

in his speech at the opening of the Institute of Policy Studies first ever conference on civil society, when he recounted the time he was at a recent National Day Reception at the National Stadium:

a large crowd was enjoying the spread of local delights, including satay. But some inconsiderate person had left some satay sticks lying on the carpet. I was with the Japanese Ambassador, who saw them, and immediately went to pick up the satay sticks. That's how they are brought up. Then I asked myself: how long before we become like that? We don't become like that with people telling us what to do or not what to do. We become like that when we ourselves start taking responsibility. And that is what civil society is.

This example tends to suggest that not only the concept of civil society but also civic society is alien to Singapore. We would disagree with this logic – most, if not all sociologists would disagree – but the important thing is that George Yeo believes (at least for domestic political reasons) that this is a good example of civil society. It is not. It is a very good example of civic responsibility. The two are very different. But the point of recounting this story is not to suggest that someone as intelligent as George Yeo is not able to make a distinction between civic and civil society, but to point out that a political choice has been made by a leading politician in Singapore to interpret one (civil society) in terms of the other (civic society), and that no amount of direct challenge to this interpretation is likely to change the government's perspective. It is not one made out of ignorance, we would suggest, but out of political skill. And, as such, the key to anyone involved in a civil society organisation is to be able to learn how a government as clever as the one in Singapore operates. And then to apply the lessons learnt in their own strategies and tactics in working for any form of change within Singapore. That means a process in the development of a civil society, which is quite different from other societies, and very specific to the socio-political context of contemporary Singapore.

Old modes of control have perceptual overhangs in the television organisations. Whilst rules are not directly imposed through rigid forms or control mechanisms, today it is hard to lift this overarching culture. Change is slow but it is present. News is now permitted to run without censorship. Despite this, Singaporean television generally is still widely perceived as a public utility through which the public can be informed, educated and entertained. The state has relinquished direct control over programming and programme content by obliging television broadcasters to observe specific programming standards and codes of practice set in Singapore Broadcasting Authority legislation. Broadcasters also add to this their own content and production standards to reduce the potential for viewer complaint and to prevent any possible government reprisal. Through relaxing, but not relinquishing this control, the government still has the power to control through loss of licence

but emphasises the agency of the broadcaster. A close relationship is still maintained between the state and the broadcasting industry as the state continues to initiate, project and formulate policies. There are advisory committees, often comprising industry, academia and state representatives, to assist and guide the government and broadcasters in this process.

Koh Tai Ann, in an article in the *Business Times* in Singapore, wrote 'restive civil society with its contesting interests and an adversarial stance towards the state (has been) de-politicised and re-conceptualised as a civic society bound more closely to the state' (*Business Times*, 30–31 May 1998: 12). This process of de-politicising and re-conceptualising in Singapore effectively appropriates the civil society movement to the Singapore government's own agenda and has been turned back onto Singapore society as civic society, defined by the government in its own terms. This strategy of appropriation has been one of the central tenets of the PAP government maintaining power since 1965 and has proven to be, time and time again, an enormously successful strategy in the politics of power in Singapore.

Rear Admiral Teo Chee Hean, at the first feedback conference in 1998, said that he preferred not to use the term civil society, 'as in many countries it has come to mean little more than a cacophony of single interest groups, each pulling in its own direction' (*Straits Times*, 21 June 1998). He prefers the phrase 'a people sector' – an active citizenry 'which takes an interest in community and national issues, understands that Singapore is what we make it to be, and which possesses the passion and commitment to contribute and participate'. In other words, a civil society defined by the Singapore government. The danger, as Kevin Tan, a member of The Round Table (an emerging civil society organisation in Singapore), speaking at the same civil society conference, pointed out, is that 'if the state perceives civil society as a threat, or civic groups as being confrontational or a challenge to the authority and power, then there is little that can be done to bring about change. At the end of the day, the economy, and related to that, the drive for the PAP to remain in power in Singapore, are the issues that ultimately drive all policy development in Singapore. For example, the five 'dilemmas' which the Singapore 21 Committee was asked to consider are, in one way or another, all about those two issues; they are:

- Internationalisation/regionalisation versus Singapore as home;
- less stressful life versus retaining the drive;
- attracting talent versus looking after Singaporeans
- needs of senior citizens versus aspirations of the young;
- consultation/consensus versus decisiveness/quick action.

These are all constructed in an either/or confrontational kind of way – they are not seen as mutually attainable or agreeable objectives but are all ultimately about a social system – a welfare system – which is secondary to a successful economy. Civil society groups that seek change therefore need to

do so in ways that recognise these priorities, rather than simply confronting them. George Yeo, for example, in developing his idea of a 'web world' where society is seen as a world of interrelated networks and groups like the world wide web, sees this as functioning well if there are 'good state-society relations' which will enable Singapore to compete and survive in a web world'. This is a discourse of competition and survival and has been the discourse that has driven the rhetoric of the Singapore government since 1965, and this is not a rhetoric that has changed in the publication of the Singapore 21 Committee report (April 1999). George Yeo argues that 'civil society and state have to work together to achieve two main things:

- to reinforce the value of the Singapore label;
 - expand the network to include friends in the region and beyond.
- (*Straits Times*, 7 May 1998)

This does not put people first. This is economic rationalism. The very fact that the Civil Society Conference, which many have seen as a landmark in the development of participation in Singapore, was held behind closed doors and that the only section open to the media was the opening speech, is a very strong indication that little is really changing in Singapore at a government level. But there are considerable changes at non-government levels – which is exactly where civil society develops. But the culture of fear, together with the culture of control, is still very strong. For George Yeo, and presumably the rest of the Singapore government, civil society defined as civic society is best seen as groups who get together voluntarily for a good cause beyond work and family, and that 'involvement in such groups is also seen as one way to anchor Singaporeans to the country'(*Straits Times*, 2 May 1998). Television has a clear role to play in this.

At this point in time, Singapore appears unconvinced about the benefits of a totally free broadcasting market with direct and perfect competition between national and foreign entrepreneurs, but it is still encouraging foreign investment especially in media training, communication infrastructure and program/content production. Economic imperatives are guaranteeing and prompting change. These changes favour high rates of return on capital and investment in the communications sector, but only if there is market demand from high-end users. Singapore is well placed to benefit from these initiatives because it is a more affluent advanced industrialised country, but its positive economic status also means it is in no rush to change. This twin mechanism of both competition and harmony would suggest, perhaps when viewed optimistically, that the state is preparing the internal market for acceptance of liberal internationalism. Whilst Singapore is aware that it must remain competitive and must maintain its external locus, it is softening and managing the change so that cultural dislocation and shock does not cause a catalytic or anarchistic rebellious response. Hence its caution with civil society developments.

In this, Singapore could be described as treading a path between liberal internationalism and democratisation. Nationally, Singapore appears to be developing its society through information access, education and communication, yet at the same time benefiting from commercial penetration and developing market processes. It appears to be helping the region to achieve substantive improvement in the prospects for democracy, to benefit its citizens socially, culturally and economically while at the same time making economic and diplomatic gains. But it is not a value-neutral path (Hukill 1994, 1996).

Conclusion

If democracy is considered to be a process of conflict and negotiations by competing forces rather than an end product then it is seen as a negotiative resolatory framework and reformist by nature. This, however, rejects revolutionary modes of attainment. The most recent discussions on civil society in Singapore (see *focas* 2001, for example) move away from Senior Minister Lee Kuan Yew's view, given at the Philippine Business Conference, Manila, that suggests discipline rather than a democracy leads to development (see Lee 1992: 38–50) to one of political accommodation still privileging the existing hierarchies of power. We suggest, however, that these views represent civic but not civil society. As yet Singapore does not give citizens the opportunity to actively participate in policy formulation; freedoms of speech, association, judicial rights and representative control are not extant; political contestation is not a privilege and there are no mechanisms for popular accountability (Hewison *et al.* 1993: 6).

James Gomez, a leading figure in recent moves towards greater civil society participation in Singapore, believes that the structural constraints of Singapore's political system hinder the Republic's political development (Rahim 1998). Penetration and domination of the PAP in all sectors of the society enhances this absolute control mechanism (Gomez 2000: 1–2). Gomez discusses the extent to which the PAP can and does encroach on civil liberties and political rights by explaining how this impacts on the pace of change. The result, according to Gomez, is two extreme political positions moderated by an additional factor as a result of conditioning. At one end the political actors, opposition parties, civil society and interested individuals would like shared governance. At the other extreme the PAP ruling party is reluctant to relinquish control or implement reform. To complicate these issues a cultural conditioning process is ever-present. This is described as a censorial political culture, as a result of four decades of centralised rule (Gomez 2000: 1–2).

Gomez claims that the population unexposed to pluralist politics has so internalised the PAP policies to automatically render any variations illegitimate or controversial. Oppositional discourse has historically suffered repercussions, spatial, physical and financial. The populace, out of self-

preservation or out of auto-regulation, therefore prefers to remain distant from oppositional discourse rather than actively engage in conscious opposition. Under these circumstances, any alternative political discourse and the development of a more active civil society becomes problematic.

Gomez indicates how the definition and direction of control is always maintained by the ruling PAP. Such a dominant source of power naturally inhibits personal freedoms. This is very apparent in civil reactions. The population is uneasy with public political discussion. 'Even if a conscious effort is made to demonstrate balance in delivery and perspective, alternative political views are essentially seen by the majority to be strictly adversarial to the ruling party and likely to carry political consequences ... Their first response is to ask whether it is allowed' (Gomez 2000: 38, see Daniels and Spiker 1994: 148) and according to Cherian George 'many are willing to sacrifice civil liberties for the practical benefits of an orderly society' (Ismail 1994: 10).

In some countries this would be seen as a marginalising of civil society, and increasingly in Singapore in recent years this is how many English-educated middle-class Singaporeans have expressed it, using a language and awareness drawn mostly from a relatively small elite, educated overseas, who have been struggling to find ways to engage in the politics of relatively benign dissent in Singapore. There is a sense in Singapore that what is now happening, in more visible ways than has occurred in the past, is a better-articulated call for the redistribution of social power and increased participatory communication. Some in Singapore would see this as the development of a civil society – others would see it as a coming to the surface of many years of underlying discontent; a few, especially some Western observers, would like to see it as the development of dissident movements (Tan 2000). The government, either way, would see it as a threat, but one which it has to manage in quite different ways than some of its more authoritarian reactions of the past.

Singaporean television is changing, but the change from the government's perspective is rational and measured. Singapore's broadcasting business seeks to mix competitive normative goals with cooperative national purpose. Singapore's measured response displays an awareness of the need to ensure the free flow of television broadcasts on one level and the somewhat paternalistic need to protect the local television broadcasting system and the national public on another. Television, for the most part at the moment in Singapore, is caught between the constraints of what it means to be a 'civic' actor in a tightly controlled public sphere, and a 'civil' audience in a society which recognises the need to be more open, but which has yet to develop the participatory democratic mechanisms to do so effectively.

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5 Out of reach

Television, the public sphere and civil society in the Philippines

Josefina M.C. Santos

In the uprising of 16–20 January 2001, which ousted former Philippine President Joseph Estrada from power, two forces stood out as pivotal: television (specifically the coverage of the impeachment trial which was the centre of public attention) and civil society (which was instrumental in the uprising itself). In this chapter I argue that notwithstanding the central importance of television in this most recent national political change, the regulation of the sector and its long-term associations with crony capitalism have established barriers to civil society finding its voice on television.

We may think of the regulation of television in terms of operators' freedom and power to operate, business practices and media content, and I will discuss each in turn. At present, there are four major categories of institutions and organisations engaged in the regulation of television content: the Philippine government, the major private corporate players in Philippine television (namely, the private Philippine television networks and companies, and the major television corporate advertisers assisted by the advertising agencies), civil society, and any combination of the nominated categories.

Civil society refers broadly to institutions, individuals and activities both outside the state and the for-profit business sector. It also pertains to the active and effective participation, especially of a middle-class, in progressively shaping the dominant public affairs of society, as seen in modern industrialised societies in the West.

Private television networks and companies practice regulation on two basic levels: the intra-media-sector level and the intra-station or company level. Regulation may be classified into three types based on degree of legality: legal or official regulation, illegal and semi-legal. The terms 'legal and official' regulation refer to television regulation based on constitutional provisions, legislation, jurisprudence and executive orders, and rules and regulations. Corruption falls into the category of illegal regulation, whereas cronyism falls into the category of semi-legal regulation.

Regulation of the freedom and power to operate

The first level of television regulation is licensing, a function which deals with the right or freedom of specific corporations and individuals to establish and operate free-to-air or cable television networks or stations. The Philippine state monopolises this sphere of regulation. Currently, though financial and technical requirements are major prerequisites for television licensing, the greatest barriers to full participation of the wide range of media players in the Philippines today are legal.

Under Section 11(1) of Article XVI of the Philippine Constitution, which covers Philippine television,

The ownership and management of mass media shall be limited to citizens of the Philippines, or to corporations, cooperatives or associations, wholly-owned and managed by such citizens.

(Constitution 1987)

However, Section 11(2) of Article XVI of the same constitution also allows up to 30 per cent foreign equity in advertising – a business defined by law to be part of mass media.

While the media provisions of the Philippine constitution were drafted and approved under the influence of nationalist political sentiments, the now dominant trend of globalisation favours a liberal interpretation of laws to promote greater foreign investment in Philippine media. According to its chief drafters, Section 28 of the recent E-Commerce Law (R.A. 8792) classifies cable and broadcast television physical infrastructure as belonging to telecommunication, rather than to mass media, and thus allows 40 per cent equity participation in cable and broadcast companies not producing their own programmes (*Telecable* 2000).

The Philippine law providing for the regulation of broadcasting companies (Act No. 3846, amended by Commonwealth Acts Nos. 365 and 571, and Republic Act No. 584) stipulates that to construct, install, establish and operate broadcasting stations, companies and individuals must first obtain a franchise from the Congress of the Philippines (Teodoro and Kabatay 1998). Under Memorandum Circular No. 7–3–93, broadcasting companies that have obtained franchises must then secure a certificate of public convenience from the National Telecommunications Commission (NTC), a government agency established in 1979 under the Department of Transportation and Communication. These authorisations are granted provided the applicant fulfils specified technical, legal and financial requirements. Existing broadcasting companies are required to renew their licences with the NTC. Aside from the licensing, the Philippine government through the NTC also assigns and manages frequencies, and settles cases filed with it regarding authorisation and other matters.

Executive Order No. 205, issued on 30 June 1987, governs the regulation of cable antenna television (CATV) in the Philippines. It requires the CATV

operators to obtain a Certificate of Authority, which authorises them to operate for not more than fifteen years and which can be renewed for a similar period. Under the E.O., the President of the Philippines may use or possess without compensation, or cause the closure of any grantee's CATV system 'in times of war, rebellion, public peril or other national emergency and/or when the public safety requires'.

The Videogram Regulatory Board (VRB) is one of the three pillars of government television regulation. It is tasked to regulate the importation, exportation, production, reproduction, distribution, exhibition, showing, sales, lease or disposition of video cassette tapes and discs. The VRB licenses the operation of local producers and distributors of such materials, oversees the licensing of foreign programmes for local reproduction and distribution, and spearheads the drive against the proliferation of counterfeit tapes and discs.

There is an interconnected relationship between the freedom and the power of media firms – in particular television networks and stations – to operate in the Philippines. The freedom to operate, which is a legal matter, is linked organically with the power to operate, which has legal, technical and financial dimensions. Once a broadcast firm obtains a franchise from Congress, it must fulfil two other conditions. It must secure a licence from the NTC, satisfying the Commission with appropriate legal documentation that it possesses the financial resources and technical capability to deliver a television service. It must also provide evidence that it has the financial, technical and legal capacity to obtain various and numerous permits that it needs to secure for its business transactions, such as purchases, import of equipment and construction of facilities.

It is from the NTC that a broadcasting firm obtains authorisation to use a specific frequency. Carlos Saliuan, officer-in-charge of the Broadcast Services Department of the NTC, has stated that broadcasting firms have already saturated the VHF and UHF bandwidths in Metro Manila, where most advertising revenues are derived (personal interview, 16 November 2000). The lack of supply of frequency to match the demand has created a monopoly situation for existing broadcast companies and technical barriers to entry for new companies. Moreover, television broadcasting is highly expensive given the complete dependence of the local business on foreign suppliers and foreign exchange for broadcast equipment and materials of acceptable quality. However, the broadcast networks and stations enjoy competitive advantages over print media in terms of demand for advertising space from corporations. The prime-time programmes in the country's leading networks often cannot accommodate the demand for advertising time from corporations. These two networks as a result practice a relative monopoly over the advertising business, as reflected in its premium advertising rates.

Technical standards are interrelated with the freedom to operate, since broadcast companies are only free to operate within the parameters of technical or engineering standards. Although it is the NTC which sets technical

standards, it relies greatly on the recommendations of the private broadcast corporations. These corporations propose technical standards for government approval, through their membership and participation in an umbrella organisation of the television, radio networks and stations in charge of self-regulation at the inter-network level, called the *Kapisanan ng mga Brodkaster ng Pilipinas* or KBP (Association of Broadcasters of the Philippines). Established in 1973, the KBP aims to serve as the broadcast trade association exercising self-regulatory powers, coordinating with government regulators, lobbying with government legislators on media-related laws and regulations and coordinating with advertisers. All radio and television announcers are required to be accredited with the KBP, a stipulation upheld by the Securities and Exchange Commission in January 1992. In this manner, the KBP shares in helping shape the power of broadcasting firms to operate. The KBP also exercises this power vis-à-vis the advertising agencies, which must get accreditation from the KBP based on standards of financial capacity and professional competence it sets for such agencies.

It is the combination of three long-term factors – the requirement that broadcast organisations obtain franchises from Congress as well as licences and permits from the NTC, the specific nature of broadcast technology (the extremely limited nature of VHF and UHF bandwidth, and its being extremely expensive) and the power of the medium to reach and influence audiences and voters – that dictates the highly political nature of television business and regulation in the Philippines. This combination of political and technical factors has tied the television sector to political processes in such a way that it has become complicit with elite politics and, except in extreme events, incapable of providing space for the articulation of civil society concerns.

Another long-term factor that adds to the highly political character of the Philippine television business is the extreme looseness of the political environment in addressing the issue of foreign direct investment in Philippine television – this, amid the strong drive of foreign investors to invest directly in Philippine television in spite of constitutional obstacles. The looseness of the political environment is reflected both in the apparent existence of loopholes that allow circumvention of the constitutional ban against foreign media investment, as well as the apparent practice of extreme liberality or laxity of Philippine government agencies in dealing with initiatives by foreign media investors.

The case of the Philippine Long Distance Telephone (PLDT), the country's top telecommunication company, is instructive. In 1999, the company passed into the hands of First Pacific, a Hong Kong-based Chinese conglomerate and its partner, the Japanese telecom giant, Nippon Telephone and Telegraph (NTT). According to a study by the Securities and Exchange in 1999, Filipinos owned a total of 84.26 per cent of the shares of PLDT, in apparent compliance with the constitutional provision limiting foreign ownership of telecommunication companies to 40 per cent. At the

same time, foreigners already owned 80 per cent of the common or voting shares of the corporation, enabling them to exercise effective majority control over the firm. Meanwhile, PLDT had already acquired various media interests, including majority shareholdings in Home Cable, a leading cable company; Infocom Technologies Inc., an Internet service provider, two satellite companies and, according to one account, a radio company, the Nation Broadcasting Corporation (Lee-Flores 2000). In short, legal loopholes had allowed effective foreign majority control of existing media companies as well as prospective foreign majority control of even bigger media interests. On the 8 February 2001, PLDT announced that it had acquired majority control of GMA-7, the country's second largest television network through the holding company Mediaquest Holdings. Moreover, News Corporation – in particular, Star TV – has gained a foothold in direct investment in the Philippines through Channel V Philippines (*Philippine Daily Inquirer* (PDI), 28 December 1999). These examples show that deregulation of foreign investment in the television sector is already widespread.

Philippine government officials tend to accept this situation on the grounds that the necessary convergence of technologies – computer, telecommunication and television – will, at any rate, lead to foreign telecommunication giants investing in Philippine media.

As for local media giants such as the ABS-CBN, their owners are resigned to the inevitability of the liberalisation of foreign media investments and to the possibility that globalisation may require them to enter into strategic partnerships with foreign transnational media corporations in order to survive. As Eugenio Lopez III, Chairman of the Board ABS-CBN Broadcasting Corporation writes, 'Like it or not, we will have competition from outsiders. Satellite television is not going away. In 5 years it could be as common as Imelda's shoes. With restrictive regulation, it could take 10 to 20 years but at the end of the day, we still have to learn to compete' (Lopez 1998: 169).

The monopolistic economic situation that governs television business in the Philippines lends itself to the critical role of government as both a regulator and as a key factor in the financial health and technical competitiveness of television networks and stations. Securing various NTC licences and permits such as the importation and purchase of equipment is a bureaucratic process. This may be accomplished quickly or may be delayed, which affects the ability of broadcast firms to compete favourably. If a firm enjoys a strong and superior political connection with the NTC it can be to the disadvantage of its competitors. Such a media firm would enjoy the advantage of what Alfred McCoy has described as rent-seeking – the accumulation of profits through political favours and privileges (McCoy 1994).

Another aspect of rent-seeking is media's differential access to government financing. The sheer size and high cost of imported equipment and foreign exchange has required many media firms to depend on government financing, which is normally less costly than private commercial lending in

terms of interest rates. This situation has become even more the case in recent years with the steep devaluation of the peso. A broadcast firm with superior access to government financing would wield not only superior financial and technical power, but also superior legal power in securing various permits from the government. This would mean superior power to operate in the short term, and eventually greater freedom to operate in general in the long term.

The monopolistic nature of both media business and government media regulation – in the tradition of the merchant and trade-monopolist business practices that have characterised Philippine economic history since the early nineteenth century – shapes the way Philippine television is regulated today. A review of the origins of Philippine television is instructive in our understanding of the highly political nature of Philippine television regulation. Indeed, Philippine television traces its beginnings to its original use as a political weapon by big business entities with overt and pronounced political interests. In 1950, Antonio Quirino set up the first Philippine television station primarily in support of the candidacy of his brother, the then incumbent President Elpidio Quirino. Since then, television magnates and politicians have wielded Philippine television as a potent political weapon to gain business territory and enhance their political clout. An historical study by Alfred McCoy of the business-cum-political interests of the Lopez family – the leading Philippine media-owners – sheds much light on rent-seeking in Philippine media. In his investigation, McCoy unravels the saga of the Lopezes' rise to media power.

McCoy's study showed that, from the very beginning, access to government resources and political influence was a key factor in gaining financial and technical power for operating a Philippine television business. The chief source of financing for jump-starting Philippine television was the Philippine government. According to Antonio Quirino, he had sought to borrow dollars from the Central Bank for importing broadcast equipment, but political factors – American opposition to Elpidio Quirino, his brother, the president because of his stand against the US military bases – blocked Antonio from accessing Central Bank funds. In spite of this, Antonio Quirino succeeded in securing loans from two government financing institutions, the Development Bank of the Philippines and the Philippine National Bank. These were the same two banks that funded the expansion of the business of the Lopezes, members of the Philippine sugar barons (the richest and most powerful of the landlord-merchant class), who were soon to become the land's top media barons as well.

McCoy's investigation points to the key role political connections played in the Lopezes' climb to the pinnacle of the local business world – a monopoly of the international air routes out of Manila, and then according to one account, a foreclosing in the 1950s by then President Magsaysay of government loans to Quirino, facilitating the sale of his television station to the Lopezes. Although the Lopezes relied on government funds to purchase

what would be its major cash cow, Meralco, the country's leading power distribution company, they no longer needed government funds to finance the broadcast network it newly established. But it still required access to government to possess the legal power to operate. As McCoy writes,

throughout this quarter century of steady growth, dozens of ABS-CBN broadcast licenses required initial government approval and periodic renewals, a process that would have been prohibitively expensive without political connections.

(McCoy 1994: 495)

In 1965, after surviving an adversarial relationship with then President Diosdado Macapagal, the Lopezes entered into a political alliance with presidential candidate Ferdinand Marcos. They would provide his vice-presidential running mate, Fernando Lopez, and serve as his major campaign financier. The deal was meant to protect the Lopez interests besieged under Macapagal. After the victory of the Marcos–Lopez team, the situation for the Lopez business empire reversed, and it expanded unhindered until 1971, when the Lopezes broke up with the Marcoses, who were demanding shares of the Lopez businesses. The political and business fortunes of the Lopezes evaporated in 1972 when Marcos declared martial law and confiscated their television network, ABS-CBN, and other Lopez corporations, together with those of his political rivals.

After nearly fourteen years, in 1986, upon the fall of the Marcoses from power, the Lopezes regained their business empire as well as their political connections under President Corazon Aquino. McCoy recounts that the Lopezes were able to rise to local media supremacy once again by means of extremely favourable government privileges, particularly, the lease of government sequestered facilities and by avoiding any payment during the six years of the Aquino administration. As McCoy analysed the situation:

With a single station, borrowed equipment and heavy bank loans, the network would have gone bankrupt. But, through a mix of political manipulation and skillful management, Geny [Eugenio Lopez, Jr.] soon made Channel 2 Manila's premier station and the most lucrative of the current Lopez investments.

(McCoy 1994: 514)

Under the next two administrations, the Lopezes retained their strong political connections. They supplied the government under President Fidel Ramos with its press secretary, Rodolfo Reyes, who had been ABS-CBN vice-president. They replicated this act of generosity during the administration of President Joseph Estrada, when they fielded ABS-CBN vice president Ricardo Puno to serve as Estrada's press secretary and help shore up his then fast-sagging popularity. The Lopezes' political connections with

the Estrada government were also cemented even further with the marriage of Estrada's daughter, Jackie Ejercito, to Manolo 'Beaver' Lopez, Jr., a scion of the Lopez clan (Santos 2000: 162).

It is because of the increasingly large financial power and thus increasingly expensive technical power required for television that big business – transnational and local, merchant rent-seeking types – and government dominate the freedom to operate television production in the Philippines. Even with the existing constitutional obstacles, the financial power of transnational conglomerates has apparently conditioned Philippine government officials into acquiescing to the silent and creeping liberalisation of foreign media investment.

On the other hand, it is also the absence of effective financial, technical and legal power in the hands of a Philippine middle class – a power sufficient either to invest in television production or to lobby regarding the conditions of freedom to operate Philippine television – that has disabled the role civil society might play in this sphere of television regulation.

For many years, no civil society organisations have questioned or contested the trend of silent or creeping liberalisation of foreign media investment in the Philippines. Civil society associations in the Philippines have protested against local monopolies in the telecommunications businesses, but these anti-monopoly activities have not spilled over into the realm of media business. The weakness or absence of civil society in this field is expressed in other ways. For one, even Philippine groups, which strictly speaking do not fall under the rubric 'civil society' because they call for radical changes outside rather than within the existing social system, hardly, if at all, address the issue of freedom and power to operate in the local television business.

Business and advertising standards

The second field of regulation relates to specific business practices, including advertising rates, terms of advertising payment and collection, use of intellectual property, labour standards and various other market practices. In general, Philippine media today is circumscribed by the policy regime of the World Trade Organisation, and the International Monetary Fund which calls for trade liberalisation, price deregulation and privatisation. This means the removal of import bans, ceilings and quotas on media products and equipment, as well as restrictions on export of various media-related goods and services. It is on the basis of the principle of deregulation that the Philippine government rarely intervenes regarding the specific business conduct of media firms, including pricing of airtime or advertising time.

The Philippine Constitution expressly prohibits business monopolies in all areas of the economy. But, for various reasons, the Philippine government has not addressed this issue – including the concern about media

monopolies – in policy or practice. There is no antitrust activity whatsoever – monitoring, investigation, prosecution – by the Philippine government, whether this be inside or outside the media sector.

On the other hand, the Philippine government is active in the enforcement of intellectual property rights, especially on behalf of transnational media companies which own copyright to movies reproduced on cassette tapes. The government agency involved here is the VRB, which has monitored video rental establishments and raided a large number of those outlets found to be violating the code. The Intellectual Property Code prohibits the retransmission of video and satellite programmes without the written consent of the programme provider or producer. The Broadcast Services Division of the NTC belongs to the Inter-Agency Committee on Intellectual Property Rights, which oversees the implementation of the Intellectual Property Code. Supporting the intellectual property regime of the WTO in the Philippine media business is the Department of Trade and Industry.

The KBP has declared as an objective the ensuring of competitiveness in the broadcast business. However, as with the government, the KBP has not set or formulated any standards as to competitive pricing within the broadcast sector. The KBP practices inter-network self-regulation in its monitoring, supervision and collection of advertising payments on behalf of its members. So far, it has efficiently discharged this function. Based on its accreditation and regulatory powers, the KBP extends a sixty-day credit line for all advertising agencies and advertisers who are not delinquent with their payments, and disqualifies violators of the credit terms from access to advertising time in all stations until the arrears are paid. To further encourage compliance, it collects fines for overdue accounts.

One of the factors strengthening KBP's role as a collecting agency for the broadcast firms is its active, key role in the management and operations of the Advertising Board, or ADBOARD, the umbrella group which formulates and enforces advertising standards for both print and broadcast media. The KBP is a member of the ADBOARD, which also includes umbrella organisations of corporate advertisers, advertising agencies, and independent blocktimers.

Just as civil society has limited freedom and scope to operate in Philippine media, Philippine civil society is also either extremely weak or non-existent in advocacy concerning media business standards. No Filipino civil society associations address the question of the propriety, for instance, of media prices – particularly, television advertising rates. One reason for this may lie in the fact that these costs are hidden to the Filipino consumer – they are borne directly only by the corporate advertisers and are largely unseen if and when passed on to consumers. The weakness of the Philippine civil society in general can be observed in the absence of any substantial consumer-rights and welfare advocacy by civil society organisations.

Regulation of content

The third sphere of television regulation is concerned with regulation of specific content – monitoring, evaluation, classification, and prohibition of specific content in television programmes. Such media content regulation will be analysed on the basis of two indicators: the type of regulating institution and the type of regulation. It will be shown that once again, even though the television sector has established a range of culturally sensitive codes of practice concerning program and commercial content, these codes are honoured more in the breach than practice and provide very little scope for civil society actors to monitor or press for compliance.

There are three major forms of Philippine television content regulation distinguished among others by their degree of legality: legal and official regulation, corruption and cronyism. The constitutional provisions relevant to media content deal with freedom of expression and the press (Article III, Section 4, Bill of Rights), and with the right of the people to information on matters of public concern (Article III, Section 7, Bill of Rights). The major law broadly covering media content regulation is the Revised Penal Code, which outlaws ‘inciting to rebellion or insurrection’ (Article 138), news ‘which may endanger the public order or cause damage to the interest or credit of the State’, or publications or speech which ‘encourage disobedience to the law or to the constituted authorities’ (Article 134), libel (Articles 353, 354, 355), slander, and ‘indecent shows’ which are ‘contrary to law, public order, morals, good customs’ (Article 201) (Teodoro and Kabatay 1998: 20–1, 25–30).

The authority responsible for implementing legal and official government regulation of television content is the Movie and Television Review and Classification Board (MTRCB) and the Presidential Appeals Board. Under Presidential Decree No. 1986, which established the MTRCB, the Board is empowered to screen television programmes, commercials and publicity materials, ‘approve or disapprove, delete objectionable portions from, and/or prohibit the importation, exportation, production, copying, distribution, sale, lease, exhibition and/or television broadcasts’ of such programmes, commercials or publicity materials. According to this decree, the Board will apply ‘contemporary Filipino cultural values as standard’ in judging whether or not programmes or portions of programmes are ‘objectionable for being immoral, indecent, contrary to law and/or good customs’. According to the implementing rules and regulations of the decree, television programmes are to be classified as ‘children’ (C), ‘general’ (G), and ‘parental guidance’ (PG). For C and G programmes, the rules prohibit depiction of violence that ‘tend to cause, alarm, distress or stress and/or anxiety to children’, sex and nudity, drugs, and use of obscene language, or frequent or unjustifiable use of mild expletives. In the case of ‘PG’ programmes, the rules ban:

- the depiction of sex, nudity and violence which is explicit or not necessary to the storyline or programme context;
- depiction of suicides or suicide attempts which are explicit or represented as 'a remedy to stress, anxiety, depression and other problems';
- the showing of the actual intake of drugs and the pleasures derived from drugs (Presidential Decree No. 1986: 396–411).

Under the same rules and regulations, decisions prohibiting entire television programmes may be appealed to an Appeals Committee, which shall submit its recommendation to the President of the Philippines, who makes the final decision.

Under the administration of President Ramos, the MTRCB headed by Manuel Morato practised prior censorship by cutting out portions of programmes it viewed as objectionable. When the Estrada administration took over in 1998, the MTRCB under Armida Siguion-Reyna took on a more liberal stance, advocating classification instead of censorship. During its early period, however, the Reyna-led MTRCB attempted to assert control by sanctioning the networks for perceived violations. This attempt eventually died a natural death when the networks ignored the sanctions and the MTRCB abandoned this mode of control (personal interview, Bernard Sales, 19 November 2000).

For a while, the Reyna-led MTRCB also moved to tighten its control of the public affairs programming of the networks by requiring them to submit public affairs shows for review before airing. Again, however, this MTRCB thrust lost steam when the networks found it technically unviable to submit their taped shows before broadcast, and absolutely impossible to do so in the case of live shows which were increasing in number. Before the MTRCB discontinued this policy, the networks and stations were finding it difficult to maintain the currency of their public affairs programmes and were forced to resort to the airing of reruns. In many cases, the stations simply refused at the time to submit pre-taped public affairs shows for review. Another factor that influenced the MTRCB into adopting a more liberal policy was the filing of a case by the GMA, the country's second largest broadcast network, against the MTRCB for its censorship of a production which focused on *muro-ami*, a fishing method which commonly uses child labour (personal interview, Bernard Salas, 19 November 2000).

The sanction that exerted the greatest impact on the stations and which has been in use, if only rarely, was suspension of programmes and media talent which violated the Code repeatedly. The most celebrated case involved the suspension for several days of the leading hosts of a top daily noontime variety show for sexual double entendre remarks – a violation of the Code which they had flouted repeatedly despite warnings from the MTRCB before the suspension.

The more active, legitimate gatekeepers in shaping Philippine television content have been the two major types of corporate players and institutions

in Philippine television that have a significant participation in control and therefore regulation of content: the television networks and stations, on one hand, and the television corporate advertisers and their partner advertising agencies, on the other. The television networks and stations play two major roles in Philippine television content: first, they produce the programmes which occupy the major portion of the content and airtime; second, they serve as the channels through which content, including commercials, is transmitted and presented to the viewing public. The television corporate advertisers supported by their partner advertising agencies likewise play two major roles: first, they supply a significant kind of content in the form of commercials; second, they finance specific television programmes and thus exercise control and a sort of regulation over television programming.

The corporate media practice of self-regulation works on two basic levels: the inter-network level, and the intra-network level. A regularly updated Television Code of the KBP lays down comprehensive rules and standards and sanctions governing television advertising and non-advertising content and business practices of its members. These standards at present include:

- discouraging crime, violence, illicit sex, vices, superstitions, occultism, cruelty, greed, selfishness, exploitation, injustice, family disunity, obscenity, racism, religious bigotry, bad taste and vulgarity, ridicule of the physically handicapped;
- support of key values such as nationalism, development, responsibility towards the community and children;
- conduct of programmes of various specific genres such as news, public affairs, political or electoral broadcasts, contests, public participation and promotions, religious programmes, fund-raising, showing of movies;
- specific advertising content;
- specific advertising business practices, such as transparency of rates and terms and ratings, contractual obligations, time standards for commercials, billing of advertisers.

(Teodoro and Kabatay 1998: 413–36)

Though the Code is technically intended for its members, it has a broader coverage in practice because the NTC has adopted it as a guide for non-KBP broadcast organisations as well. Admittedly, non-KBP broadcast organisations tend to be freer to step outside the bounds of the Code, such as featuring gambling-oriented shows. It is for this reason that some networks remain non-members of KBP.

The Code is revised at least once a year through decisions approved by the KBP's Top-Level Management Conference (*Broadcast Media Factbook* 1998: 10). The 1999 conference approved revisions on the Code which toned

down previous admonishment against depiction of superstition and sex. In 2000, the KBP Radio and television Codes were fused into a single code.

Overseeing the Code's implementation, including imposition of disciplinary measures or fines, and settling disputes regarding standards, is a KBP Standards Authority (SA), a nine-member body appointed by the KBP Board of Directors. The Standards Authority receives and assesses complaints from viewers regarding violations of the Code. It does not file cases on its own and relies wholly on outside complaints. Supporting its evaluation work are various members of the KBP's legal, trade and accreditation committees. In pursuit of this task, the SA renders decisions on these complaints.

It also set up a Volunteer Monitoring Unit led by a former MTRCB head to conduct its own evaluation of networks' and stations' compliance with the standards set by the Code. In 1999, the KBP also discussed proposals and plans to organise students to monitor and evaluate samples of television programmes in line with standards of the Code. Most of the complaints deal with perceived violations of the Code regarding use of foul language, sexual improprieties and excessive violence (personal interview, Bernard Salas, 19 November 2000). To some extent, however, the sanctions applied do not deter stations from consciously violating certain provisions of the Code. For instance, a station that airs a program featuring a media personality whose appeal lies in his 'hard-hitting' style, which includes occasional use of foul language, has found it more viable to pay the KBP fines rather than revise the program's style in line with the restrictions of the Code.

A number of the complaints mediated by the KBP fall into the category of disputes between stations, which include criticisms levelled on air by a media talent of one station at a media talent from another station. The general policy in this regard is exerting maximum effort to arrive at an amicable settlement of the complaint (personal interview, Bernard Sales, 19 November 2000).

Former KBP Standards Authority chairperson attorney Bernard Salas considers the self-regulating work of the KBP, and specifically the Standards Authority, to have been effective. He points to, as among the key indicators of its success, the recent request of the Philippine Supreme Court for briefing from the KBP regarding its mode of self-regulating broadcast media as a model for self-regulation in other Philippine industries (personal interview, Bernard Salas, 19 November 2000).

According to Salas, the increasing number of complaints filed by the general viewing public is one indicator of the increasing effectiveness of media self-regulation. Salas asserts that the previous lack of public awareness of the KBP as a channel for processing public complaints regarding media content is being reduced by the mention of the KBP in various public service ads or plugs aired on television, and by the initiatives of the KBP SA to participate in various public fora focusing on standards of media content.

However, Salas also admits that there are weaknesses in the KBP organisation that hinder further public participation in shaping television content.

Most local KBP chapters are inactive. In addition, in most local areas where KBP chapters are either operating or supposed to operate, there are no Community Advisory Boards, which are envisioned to involve the local communities in proposing or implementing policies or programmes for television. According to him, one of the reasons that KBP has not paid special attention to the formation of local chapters is the tendency for politicians or aspiring politicians to exploit these as mere vote-getting vehicles.

Through lobbying by the KBP, television networks and stations have been able to influence the passage of laws and policies related to media content. As to content in the form of advertisements which occupy a substantial share of airtime, it is the ADBOARD which screens and approves television advertisements before they are shown. On the intra-network level, self-regulation takes two basic forms: self-regulation based on regular management decision chains; and the regulation by a resident network ombudsman.

In the regular management chain, top-level corporate boards and management committees are expected to shape the general character of programme content through decisions on types of programming. On the other hand, news and entertainment managers are generally tasked with the final approval of material for airing. The top-level management enjoys the final say on which programmes are to be retained or discontinued.

The individual networks and stations seek to conform formally to the Code by classifying the programmes as 'for general patronage' and 'parental guidance'. They now submit to the MTRCB only those programmes, which they consider controversial enough to invite the attention of the MTRCB (personal interview, Bernard Salas, 19 November 2000).

Only two networks – the leading ones, namely ABS-CBN and GMA – have full-time ombudsmen in charge of monitoring and regulating their programmes for violations of the Code. ABS-CBN has only just established in 2001 a Pulse Team, led by a creative director and tasked to gather feedback, through field interviews, and process the information in reshaping storylines and scripts to better suit viewers' tastes and sensibilities.

In these decisions, ratings and net income more often than not constitute the major considerations driving both news/public affairs and entertainment-type programmes. Commercial, profit and pecuniary considerations and motives which are normal in privately owned television businesses sometimes, even often, conflict with the standards laid down in the Code. For instance, Philippine tabloid-type television news, a format which has enjoyed high ratings, derives its popularity to a large extent from the sensationalism of its content, especially in the gory depiction of bodies in crime stories, and its propensity to feature folk superstitions – trends both discouraged by the Code.

Much of the more powerful forms of regulation and control of Philippine television news and public affairs programmes by government and traditional parties and politicians are hidden, informal and semi-legal or even illegal. Exploiting their connections with television-station owners

and managers, many of the most powerful politicians or would-be-politicians in the Philippines gain or corner unfair access to media exposure as hosts of their personal talk or drama shows. Various studies have explored the control by Philippine traditional politicians of Philippine media, and television news and public affairs in particular, through corruption and cronyism. An investigation of corruption of Philippine media revealed that to ensure favourable media mileage, political parties and candidates commonly bribe or buy off various levels and members of the working press, including television, from media owners, publishers and top management to editors, anchors and reporters (Florentino-Hofilena 1998).

According to a survey of thirty-one broadcast reporters, 61 per cent were offered bribe money in the course of their work. Moreover, 58 per cent of them believed that the bribery of reporters in their respective beats somewhat influenced the coverage. A similar 58 per cent viewed fellow reporters in their stations to be receiving bribes (Chua and Datinguino 1998: 101, 105). According to media practitioners, many Philippine television news or public affairs managers are engaged in the independent sideline business of public relations for politicians (focus group discussion, 25 January 2001). Bribery of television personnel becomes especially rampant and intensive during election campaigns. Among the identified cases of bribery during the 1998 presidential campaign were: the allotment of PhP 725,000 to the news managers of seven television networks; the hiring of the services of a famous television anchor for a package of PhP 5–8 million, and of another television anchor as ‘consultant’ for ‘millions of pesos’; and the payment of PhP100,000 each in a lump sum as ‘standard payment’ to broadcast managers (Chua in Florentino-Hofilena 1998: 40–1, 57).

But the most pernicious and powerful form of bribery has been directed at the media owners themselves. A comment elicited during the investigation captures the role key media owners and managers play in the corruption of the working press, including television:

One media operative who was involved in the 1998 campaign stressed the importance of involving publishers and media outlet owners in any clean-up drive: ‘*Kung reporters at editors, bale wala*. After all, they are the ones who hire the top guns and *laging sa taas nagsisimula ang suhulan*’. (Efforts will come to naught if reporters and editors are the only ones involved ... bribery always begins at the top.)

(Chua in Florentino-Hofilena 1998: 83)

The conduct of television news and public affairs programmes from December 2000 to January 2001 offers lessons and insights into the politico-economic character of Philippine media and media regulation. With the impeachment trial of former President Estrada televised, television became the major arena of Philippine politics for more than a month and a half. Millions of Filipino citizens tuned in religiously to the daily broadcasts of

the impeachment trial as if they were soap opera, raising ratings for public affairs broadcasts to record levels. It was not surprising that rumours were rife about leading television news managers and anchors being bought by the administration. But the whole media affair had an even more sinister dimension. Television reporters complained off-the-record of threats by anonymous phone-callers. The abduction and continued disappearance of a prominent public-relations practitioner had a chilling effect on media practitioners. However, despite the corruption and intimidation which defined the hidden regulation by powers-that-be, Philippine television played a pivotal role in galvanising the people to support the rapid on-camera downfall of President Estrada.

All in all, private-business and government corruption of television media through bribing and cooptation of news departments and media owners exerts an extremely negative effect on the quality of television content by minimising its critical qualities. All these cases point to a substantial level of television regulation of various forms by Philippine big business and government in the sphere of media content, just as we saw in the spheres of freedom and power to operate and business practices.

Again, however, Philippine civil society is exceedingly weak in the sphere of media content. The only particularly strong interventions by non-government and non-business sectors on television media content have come from the hierarchy of the Catholic Church, regarding sexual double meanings. The Church hierarchy also seeks to influence content standards through its Catholic Mass Media Awards. But, strictly speaking, the Church hierarchy does not fall under the category 'civil society', given its affiliation with big business through its investments. As in other spheres of regulation, the Philippine middle-class, as well as grassroots civil society organisations, scarcely pay attention to issues of television content. There is little or hardly any advocacy among middle-class and grassroots organisations concerning media escapism and the lack of critical television content. Through market/ratings surveys and responses to field inquiries on television drama programmes, a sampling of Philippine middle-class and grassroots households are able to provide some amount of feedback to the networks. But the standards used to evaluate television programmes and storylines tend to conform to traditional and conservative attitudes and values, which reinforce social inertia and opposition to substantial social change. In these feedback-gathering sessions, middle-class and grassroots interviewees commonly express their preference for storylines and dialogue that make them 'feel good' rather than critical about their current life-situations.

Recently, middle-class women's groups have proposed a code of feminist attitudes and values as content standards for television programmes in member-stations of the KBP. However, apart from this, there is no substantial amount of critical, progressive feedback or advocacy feedback based on a comprehensive critical assessment of the values underlying the programmes, storylines and dialogue. There is no promotion of wide-

ranging progressive values to television producers by middle-class and civil society associations equipped with critical media literacy skills. In these same middle-class and grassroots organisations, just as there is little concern for issues of media content, there is hardly any substantial critical media education and literacy being undertaken among their constituents. Civil society lags far behind business and government as a force in Philippine television regulation.

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6 Television, regulation and citizenship in Australia

Terry Flew

Difficulties in applying 'civil society' in Australia

'Civil society' has been one of the great buzzwords of sociological and political thought since the late 1980s. As Krishna Kumar has noted:

'Civil society' sounds good; it has a good feel to it; it has the look of a fine old wine, full of depth and complexity. Who could possibly object to it, who not wish for its fulfillment.

(Kumar 1993: 376)

The strongest impetus for a renewed interest in civil society came from the fall of communist one-party states in Central and Eastern Europe, as well as the South African apartheid state. Oppositional movements such as the Polish Solidarity movement and the African National Congress had been obliged to develop strong non-state institutions and practices while they were an officially outlawed opposition, and looked to these institutions to provide the basis for a renewed democracy after the fall of these regimes. In the West, interest in civil society has been triggered by dissatisfaction with bureaucratic, statist and top-down solutions to economic and social problems. It features in both theories of radical democracy as a key to promoting the 'democratic imaginary' (Laclau and Mouffe 1985; Keane 1988), and in theories of the 'Third Way' that point to renewal of social capital as the basis for community development (Giddens 1998). Both of these latter uses have operated in the Asian context, with civil society discourses being sometimes promoted by those opposed to authoritarian states, and in other cases, such as Singapore, being promoted by the state as a means of broadening and deepening citizen involvement in nation-building projects (Lee 2001).

There is a need to avoid making too strong a distinction between civil society and the state. At a theoretical level, there is conceptual confusion that surrounds attempts to differentiate 'civil society' as a domain that is formally separated from the state on the one hand, and the market economy on the other. Defining civil society as 'the arena of non-state

institutions and practices which enjoy a high degree of autonomy' (Kumar 1993: 383) begs the question of how their sustainability is secured over time, if not through the support of the state or through success in the commercial marketplace. Tony Bennett has argued that there is considerable porosity of boundaries between state organisations and those of civil society, and that:

Public spheres ... are brought into being not merely outside of and in opposition to the bureaucratic apparatuses of the state but also within those apparatuses or in varying degrees of quasi-autonomous relations to state bureaucracies.

(Bennett 1992: 235–236).

In Australia, the ditch that separates state institutions from those of civil society is a narrow one. The significance of actions by state institutions in the formation of sites for diverse and critical cultural activities is cogently developed in Gay Hawkins's history of community arts in Australia. Hawkins's account provides ample evidence to indicate that community arts, often rhetorically constructed as the most avowedly oppositional and anti-statist of forms of cultural practice, is, at least in the Australian context, 'a creation of government policy, an official invention' (Hawkins 1993: xviii). Stuart Cunningham has made similar observations in relation to Australian broadcasting, indicating that the establishment of the Special Broadcasting Service in 1980 came primarily out of projects driven by the Australian national government to 'advance minoritarian, multicultural concerns in the national interest, and it relies on official national policies associated with multiculturalism for its public legitimacy and community support' (Cunningham 1992: 43).

Regulation and the 'public interest'

The institutional structure of broadcasting derives, in the first instance, from the dual nature of the airwaves (spectrum) as both a public resource and a form of property that can be privately owned. The direct relationship that exists between broadcasters and their audiences is thus always mediated by the institutional arrangements that enable broadcasters to have access to spectrum. The constitution of the airwaves as both a scarce resource and as property is intimately bound up with their constitution as a public resource. As a result, broadcasters necessarily engage not only with audiences as a public, but also with regulatory agencies that have responsibility for spectrum allocation and management, and which have the capacity to require broadcasters to meet certain 'public interest' or 'affirmative' obligations as a condition of access to scarce and public spectrum space. While the case for regulation of broadcasting on the basis of its potential social impact emerged at an early stage in the development of broadcasting, spectrum

scarcity and public ownership of spectrum preceded a public interest rationale for public interest broadcast regulation, both historically and analytically.

The concept of a 'public interest' in broadcast communication was first officially expressed by the US Secretary of Commerce, Herbert Hoover, in 1924, and was enshrined in the US Radio Act of 1927, which established that broadcast licensees should uphold the 'public interest, convenience and necessity' (Krasnow and Longley 1978; Streeter 1995). Out of the notion of a 'public interest' in broadcasting emerged the concept of a 'public trust' as a basis for broadcast policy and regulation. The 'public trust' discourse of broadcasting policy clearly implied the accountability of broadcast licensees to the public. 'The public' as a concept was understood not simply as an aggregation of listeners and viewers, but as a collectivity with interests that broadcasters had an obligation to serve. Anthony Smith has described the concept of the public interest as containing 'sub-textually a sense of the existence of a natural conflict between individual and public goods, between the natural strivings of people for their own betterment and the social benefit which might ensue from a partial or temporary denial of self-gain' (Smith 1989: 11). Countries such as Australia and Canada adopted approaches that were based upon a *dual broadcasting system*, with regulated commercial broadcasters coexisting with a state-funded national broadcaster. This was a structural outcome that was in contrast to the US situation of an entirely commercial broadcasting system until 1960, or that of state monopoly provision, which occurred in the majority of European, Asian, African and Latin American countries.

Media and citizenship

A fruitful line of inquiry for understanding the relationship between media regulation and the 'public interest' in the Australian context is through relating media development to the development of citizenship. A number of writers in media studies have proposed that citizenship discourses be applied to the analysis of media systems as a way of promoting agendas of social reform in the media (Mulgan 1990; Curran 1991; Hawke 1995; Schultz 1998). Peter Golding and Graham Murdock (1989) utilised T.H. Marshall's three-fold typology of civil, political and social citizenship to propose that communications policies that guaranteed citizenship rights would: (1) maximise the access of individuals to information, advice and analysis concerning their rights; (2) provide all sections of the community with access to the broadest possible range of information, interpretation and debate on issues; and (3) allow people from all sections of society to recognise themselves in the representations offered in communications media, and be able to contribute to the development and shaping of these representations. The necessary conditions for communications and information systems to achieve such goals are maximum possible diversity of provision,

mechanisms for user feedback and participation, and universal access to services regardless of income or place of residence. According to Graham Murdock, 'to meet these criteria, a communications system needs to be both diverse and open' (Murdock 1992: 21).

Golding and Murdock's focus is upon *political* citizenship, and the extent to which such discourses can provide the basis for an open, inclusive and universalist understanding of rights. It is inescapable in the history of citizenship discourse, however, that the concept has also always had a *national* dimension, with associated obligations to a nation-state, a 'common culture' and a normative moral community.

Employing Hindess's (1993) definition of citizenship, the concept can be seen to have three dimensions:

- 1 A *legal-political* dimension, based upon an egalitarian understanding of rights and duties, including the guarantee of legal rights of independence and equality before the law, the political rights of freedom of speech and association, and the right of citizens to participate in decisions concerning their governance, as part of their standing as independent persons;
- 2 A *national* dimension, or the existence of forms of exclusivity over the granting of citizen rights within a territorially defined community, and control by state authorities over formal admission into that community, including the right to deny admission, as well as requirements upon citizens to participate in the affairs of that community, including the defence of its territory;
- 3 A *cultural* dimension entailing, on the one hand, the sustaining of some form of moral community or 'common culture' among its citizens, as part of a binding sense of membership in a political community and, on the other, recognition and tolerance of difference, diversity and the rights of individuals to freedoms within the 'private' sphere.

Citizenship in its modern sense has long been connected to the media of communications. Popular media have played both a pedagogical role as cultural technologies deployed for purposes of nation-building and citizen-formation, and a more critical role as sites for articulation of popular discontent with the unjust or illegitimate use of public power and authority. The centrality of media to modern conceptions of citizenship arises from the re-emergence of classical citizenship discourses in the context of modernity, whose features include: the large multi-ethnic nation-state; representative democracy; commerce and capitalist industry; rational and calculative modes of government administration; and a world of sovereign states (Heater 1990; Davidson 1997). The primary means of communication of modern nation-states would not be the direct speech and face-to-face interaction of the ancient city-states, but rather forms of 'mediated interaction' associated with the development of technologies that enabled the mass

circulation of print and, later, broadcast media (Thompson 1995; Finnegan 1988).

In broad terms, two approaches to the relationship between media and citizenship have predominated. The first has been that of *liberal media theory*, which points to the role of the media in modern liberal-democratic societies as guardians of the rights and liberties of citizens in the face of unaccountable or irresponsible exercises of institutional power, or as the 'Fourth Estate'. The primary weakness of liberal media theory is its difficulty in reconciling the formal equality of senders and receivers in the communications marketplace with substantive inequalities in access to material resources to influence public opinion, and the concentration of ownership of the most influential media among a small number of powerful corporate interests. Schultz has drawn attention to the difficulties involved in promoting 'Fourth Estate' ideals in the context of a predominantly commercial media system, observing that journalism has been increasingly bound by the 'paradox of holding its head in politics while its feet are grounded in commerce' (Schultz 1998: 45).

Critical media theory shares with liberal media theory a belief in the emancipatory possibilities of media, but sees a more 'tragic' history of the media in capitalist modernity, due to the tension between the formal equality of citizens in democratic societies, and the structural inequalities and forms of hierarchy characteristic of capitalist market economies. According to Nicholas Garnham, who draws upon Jurgen Habermas's historical-normative analysis of the public sphere, the result has been a situation where 'the public sphere – this space for a rational and universalistic politics distinct from both the economy and the State – was destroyed by the very forces that had brought it into existence' (Garnham 1990: 107). Critical media theorists such as Nicholas Garnham (1990), James Curran (1991) and Peter Dahlgren (1995) have argued for the significance of public broadcasting as central to the project of collective citizen formation within nation-states. At the same time, the connection drawn by critical media theorists between public broadcasting and political citizenship is not as clear-cut as it first appears. Richard Collins (1993) has drawn attention to the tendency in critical theory to deal with public service broadcasting as a normative ideal, rather than with the actual conduct of public service broadcasters. The point is not merely a semantic one, since Collins argues that the conduct of public service broadcasters can only be understood in terms of their interaction with the commercial sector in an overall national broadcasting system. Moreover, this interaction with the commercial sector has been a positive influence on public service broadcasting since, in countries where public service broadcasting developed without pressures from audience competition from a commercial system, the outcome has largely been 'a "top-down" broadcasting service [that] constructed an idealised and reified public, to which it represented a public sphere of broadcasters' imagination' (Collins 1993: 250).

John Hartley (1996, 1999) has presented an important challenge to the 'tragic' account of media's erosion of the public sphere and citizenship principles in capitalist modernity. Hartley argues that television has been used by its audiences 'for ... the formation of *cultural citizenship*' (Hartley 1999: 26). In the great competition of modernity between governmental, educational, media and critical institutions for popular attention in the public sphere, it is the broadcast media that have been most effective in leading a movement from 'mass society' to identity politics and what Hartley terms 'do-it-yourself (DIY) citizenship', due, paradoxically, to the medium's use for *cross-demographic communication*, or the aggregation of socially and culturally distinctive audiences (Hartley 1999: 154–65, 186–7). In this model, 'educational television' is not simply a dedicated division in the public service broadcasting organisation, but can be found, for example, in the pedagogical strategies of commercial dramas and lifestyle programmes (cf. Hawkins 2001; McKee 2001). For Hartley, good popular television can be both popular and critical, fun and informative; it does not rest upon the 'sublimation of pleasure to value' that Gay Hawkins critiques in the approach taken by 'quality' public service broadcasting towards its audience (Hawkins 1999, 2001). At the same time, since Hartley's account treats the relationship between commercial media and citizenship as developing largely independently of state regulation, it poses the question of why or whether involvement in the media policy process is a necessary activity for those seeking to promote citizenship goals, or whether the issues are largely solved through the operations of the commercial marketplace. This issue will be returned to in the conclusion to this chapter.

The 'policy settlement' of Australian broadcasting

Early Australian broadcasting policy was premised upon identification of a 'moral dimension' as well as a purely commercial element to the operations of commercial broadcast licensees, on the basis that it dealt with a public collectivity beyond the market place. This public trust discourse formed the basis for state interventions in programming, such as the requirement that broadcasters are required under their licence conditions to provide 'an adequate and comprehensive service', with the precise forms of evaluation to be determined through the policy process. Commitments to Australian content and children's programming, and mechanisms to secure broadcaster accountability to viewer complaints would also form components of this *policy settlement* for Australian commercial broadcasting.

In practice, the policy settlement for Australian broadcast television was characterised, in the first instance, by strong and politically powerful broadcast licensees, and weak and compliant regulatory agencies. As a result, demands for commercial broadcasters to meet affirmative programming obligations, and for greater public involvement in the broadcast policy process, have often been faced with regulatory agencies that were unwilling

to act. This can be seen as being due to *regulatory capture*, which Horwitz has defined as agency behaviour that 'systematically favours the private interests of regulated parties and systematically ignores the public interest' (Horwitz 1989: 29). Another element of the policy settlement was the highly profitable ownership structure that emerged out of laws governing networking and barriers to entry, and the question of whether the monopoly profits that subsequently accrued to broadcasters should be directed towards programming of high social or cultural value, such as Australian drama production and children's programming. This has, in turn, created the *quid pro quo* approach to broadcasting policy, whereby entry restrictions for potential new competitors are a political trade-off for meeting these programming obligations (Productivity Commission 2000; Thomas 2000; Flew 2002).

Early Australian commercial television was also characterised by high levels of imported programming, particularly from the United States. The Vincent Report into Australian television found that, in 1962, 97 per cent of Australian television drama was imported from the United States (Flew 1995). This in turn created demands for policy intervention to secure levels of local content, particularly in the area of drama, that would enable the medium to develop as a site for national cultural development and provide employment opportunities for creative people and the development of a strong local audiovisual industry. The politics of local content regulation, and media content regulation generally, have been different from other areas of media policy such as media ownership. There has been considerable political bipartisanship on the issue of local content regulations, which have been seen as an important component of an emergent Australian national cultural identity, as well as having positive economic outcomes for the local production industry. There has also been a greater potential for flexibility and autonomy in the policy process on the part of the responsible regulatory agency, which has in turn encouraged a greater degree of what Anna Yeatman has termed *activism in the policy process*, as interest groups collectively organise to participate in the determination of policy outcomes (Yeatman 1998).

Citizenship discourses and media regulation: four Australian case studies

The introduction of television into Australia

Decisions about the structure of Australian television were strongly shaped by the context of 'Cold War' politics in Australia. While the Chifley Labour government favoured a public monopoly over television broadcasting along the lines of the BBC's status in the British system, the Liberal-Country Party was able to use this as evidence of Labour's 'socialism', and gained power in 1949 on an electoral platform that strongly stressed the role of private ownership. It oversaw the development of a dual system for Australian tele-

vision, consisting of a national service (the Australian Broadcasting Commission, or ABC) and licensed commercial stations. Cameron Hazlehurst (1982/3) has observed that other key structural questions, such as whether television should be introduced at all, or whether there should be a public service monopoly, had been decided in advance. Similarly, Albert Moran has argued that the 1953–54 Royal Commission on Television and other public enquiries of the time ‘were discursive circuses with no real impact’ (Moran 1993: 7–9). While this is largely true of debates about the structure of ownership of Australian television, the Royal Commission on Television nonetheless provides revealing insights into the politics of broadcasting policy in the ‘pre-history’ of Australian television. The public inquiry also provided an important occasion for expressing differing concerns about the medium among various individuals and interest groups.

The Report of the Royal Commission on Television, presented in 1954 (Parliament of Australia 1954) provides important insights into how such concerns were translated into policy objectives and strategies. An implicit cultural evolutionism informed the report’s understanding of the social impact of television, and the relationship between the medium and its audience. In addressing arguments calling for a delay in the introduction of television or for the rejection of commercial television – as put by a diverse range of groups from trade unions to religious organisations (Curthoys 1991) – the report’s authors argued that the ways in which audiences used the medium would improve over time, as audiences became habituated to television. Observing that ‘we are only at the beginning of a long evolution’ in the development of the medium, the report argued that there was an initial ‘compulsive period’, lasting over a period of six months to two years in which audiences engage in ‘unselected viewing’, but that over time ‘the viewer becomes more selective’ (Parliament of Australia 1954: 34). Such arguments reflected the influence of what James Walter (1994) has termed the ‘culturalists’, who believed that television could be a powerful force for nation-building and cultural citizenship, on the basis of strong government regulation (Flew 2001: 36–8). Addressing the question of whether industry self-regulation or regulation by external organisations should be the principal means of control over the programming of commercial broadcasters, the Report concluded:

If the public puts up with inferior television, it will only have itself to blame if it fails to take advantage of the means provided for the expression of its dissatisfaction. What is needed is a vocal public which will offer constructive criticism and refuse to be satisfied with inferior programmes ... An active policy of constructive public criticism is essential in Australia if television is to reach the standard desired.

(Parliament of Australia 1954: 37)

What is striking about the development of Australian commercial television is how little it was informed by this reformist trajectory. The problem was partly structural. The rejection of arguments for public monopoly had also involved a substantive rejection of the idea of broadcasting as primarily an instrument of cultural reform, citizenship education and nation-building. Instead, there was a prior acceptance of a broadcasting system where the commercial sector would play the dominant role. 'Social' arguments concerning the medium's use would work 'against the grain' of this structural logic. The problem was also institutional. Exhortations to the public to participate assumed that effective means existed for the expression of dissatisfaction and action upon it. The Australian Broadcasting Control Board, established in 1949, manifestly failed to act as an effective conduit for public participation, as an effective regulator of programme standards, or even as an initiator of research that could enable informed public debate about television and its impact. What instead emerged was a closed policy framework, characterised by elements of regulatory capture, or over-identification on the part of the regulatory agency with the industry which it regulates, and a fear on the ABCB's part of ministerial rejection of recommendations that contravened the government's objectives. Mark Armstrong (1980) has argued that the function of programme standards regulation by the ABCB was largely symbolic, due to its fear of alienating either the industry it regulated or the government to which it was responsible.

Public participation in licence renewal hearings

While criticism of structural and regulatory aspects of Australian television occurred in the 1960s, most particularly in the Vincent Committee's report into the level of Australian content on television (Parliament of Australia 1963), it was not until the early 1970s that this translated into sustained media policy activism. The election of the Whitlam Labour government in December 1972, after 23 years of Conservative governments, was an important impetus for change, although commitments to support a local film production industry had previously come from the Gorton Liberal-Country Party government in 1969. While the Whitlam government did enact stronger Australian content regulations and promoted the development of community media (particularly in radio), critics at the time viewed the period as one of missed opportunities for reform (Edgar 1979), and the Fraser Liberal-Country Party government was quick to abolish the Department of the Media when it came to office in late 1975 (Flew 2001). Interestingly, moves to enhance public participation in broadcasting policy in Australia were stronger under the Conservatives than under a Labour government. Following the 1976 Green Report into the structure of Australian broadcasting, the Australian Broadcasting Tribunal, established in 1977 to replace the ABCB, called for greater public accountability for

broadcasters in its 1977 report *Self-Regulation for Broadcasters* in the following terms:

We believe that the industry, either on a collective or an individual basis, should be regularly and directly confronted with the views of those whom it serves ... The philosophy of direct public accountability is the basis of our approach to the regulation of broadcasting.

(ABT 1977: 17)

The Tribunal's call for 'direct public accountability' of broadcasters to citizens was presented in part as an alternative to direct government regulation, as regular public licence renewal hearings would provide occasions where the broadcasting industry would be 'regularly and directly confronted with the views of those whom it serves' (Australian Broadcasting Tribunal 1977: 17). In practice, the licence renewal hearing process was largely a failure. Jo Hawke (1995) has argued that, by 1979, the hearings had become highly legalistic, with increasingly restrictive determinations on who had a right to participate, uncertainty about the actual powers of the Tribunal over commercial licensees, and a growing reluctance on the part of the Tribunal to deliver adverse judgements against commercial broadcasters. Nonetheless, those groups that remained involved developed valuable skills in the policy process, enabling them to more effectively pursue broadcasting policy reform issues in other forums. Kate Harrison, who was heavily involved in these inquiries, and who would later establish the Communications Law Centre as a public interest group in media policy, concluded that:

A significant lesson for the reformers from the renewal process would be that they should frame future reform demands in more specific and quantifiable terms. If the reformers had pushed for changes which were clear-cut and measurable, they may have been more successful. While a more 'bureaucratic' approach to reform lacked the excitement and the public profile of the early renewal inquiries, it may have achieved more substantial reforms in the long run. The open-ended nature of the renewal process too easily obscured whether or not anything had really changed.

(Harrison 1986: 616)

Australian content regulations for commercial television

If moves in Australia to enshrine a principle of political citizenship through public participation in broadcast media policy have been largely unsuccessful, initiatives to promote principles of national and cultural citizenship through local content regulations have a greater history of success, due to elements of the Australian 'policy settlement' for broadcasting discussed earlier. The idea that Australian broadcast media should contain Australian

content has existed for as long as the media themselves, and local content quotas for commercial television broadcasting had existed since 1960. Arguments for Australian content regulations have included: the significant cost differential between locally-produced programmes and those imported from the United States; the development of a local audiovisual production industry; the promotion of diversity and innovation in local production; the promotion of Australian national culture; and opposition to 'cultural domination', particularly through the impact of material from the United States (Flew 1995).

An interesting feature of the ABT's Australian Content inquiry, which commenced in 1983 and concluded in 1989, was the extent to which the Tribunal sought to facilitate a role in the policy development process for community-based and 'public interest groups', as well as local production interests and industry unions, as a form of 'countervailing power' to the obvious influence of the commercial broadcasting networks. The ABT promoted such a 'brokering' role through its circulation of information to participants on such vitally important questions as production personnel resources for different categories of program, the extent to which different types of local production have been broadcast and how they have rated, how new television programmes are developed, and the relationship of commercial television to changing notions of Australian cultural identity. Through broad access to such material, the Tribunal was able to ensure that negotiations between conflicting parties were able to move beyond ritualised oppositions to a situation where conflicting viewpoints could be productively managed by the regulatory authority.

One recurring issue in Australian content regulations is whether Australian content is broadcast material produced by Australians, or whether it has, or should have, a distinctive 'Australian look'. This question, which arises in part from historically derivative elements of Australian film and television production, as well as the use of Australia as a location site for 'offshore' productions, emerged in the late 1980s around the question of an 'Australian look', which the ABT recommended in its Draft Proposal for the Australian Content Standard. The initial 50 per cent quota proposed by the ABT sought to encourage programmes that were:

- recognisably Australian in theme, perspective, language and character;
- designed specifically for Australians;
- relevant to Australians;
- under Australian creative and financial control; and
- acknowledge the diverse backgrounds which make up the Australian people.

The proposal sought to develop a series of 'on-screen indicators' to determine the 'Australianness' of a program, including theme (content and topic), perspective (an Australian viewpoint), language (Australian speech,

including idiom and accents), and character (incorporating scenes and costumes, character portrayal, interpretation of material, and accurate casting). Critical responses to the ABT's Draft Proposal were submitted by industry organisations, most of whom were otherwise supportive of Australian content regulations. Their criticisms were that: the 'Australian Look' concept and its indicators were based upon flawed and backward-looking assumptions about Australian culture; it would be subjective in their application; it failed to recognise the growing importance of foreign investment in Australian productions, and the need for such funding in order to export higher-cost local productions; and that such guidelines were a constraint upon creativity. The proposal was shelved in favour of a less prescriptive 'Australian factor' test, largely derived from 'off-screen indicators', such as measures of Australian creative and financial control.

Market-oriented reformism and the Broadcasting Services Act 1992

The late 1980s and early 1990s marked a transitional period in the politics of media reform in Australia. In the period prior to the late 1980s, the politics of media reform largely revolved around the scope to extend social regulation of private broadcast media resources, particularly in the areas of public participation and accountability and Australian content requirements. From the late 1980s, however, new issues entered the policy domain, such as:

- the implications of microeconomic reform and national competition policy for media policy, as these overarching policy frameworks became increasingly central to all areas of Australian public policy;
- the impact of convergence upon media policy formation, particularly as liberalisation and the promotion of competition became the norm in telecommunications policy, and as new services such as Pay TV were incorporated into the broadcasting policy framework;
- the implications of international law and trade agreements for domestic policy making.

The period from 1988 to 1992 saw a review of Australian broadcasting policy, leading to the passing of the Broadcasting Services Act (1992). The Deputy Secretary of the Department of Transport and Communications, Mike Hutchinson, saw this reform of broadcasting legislation as promoting 'a more competitive, open, regulatory regime with greater commercial freedom for enterprises and services to respond and adjust but with rules in place to safeguard the public interest' (quoted in Flew 1994). Such views reflected a shift in the dominant understanding of how best to achieve media diversity and how best to serve the public interest, as attention turned away from service guarantees for a small number of incumbent broadcasters, to promoting greater competition and the entry of new players into

the sector. Such rethinking of broadcasting legislation was occurring worldwide in the 1990s, driven by:

- technological changes, such as the capacity of new delivery technologies such as broadband cable, satellite and MDS (microwave delivery systems) to provide multichannel services across distances without use of additional spectrum;
- economic changes, such as the willingness of consumers to subscribe to multichannel pay services, or the scope for advertising revenue to expand to use the new services as well as existing terrestrial broadcasting services;
- political changes, whereby regulations were changed in order to allow the entry of new services, often with fewer regulatory requirements on programme content than applied to the incumbent broadcasters.

In practice, however, the legislative changes in Australia led largely to a strengthening of the economic position of the incumbent broadcast networks, and a weakening of the capacity of civil society groups to exercise countervailing power to the broadcasters. After the largely self-inflicted industry downturn of the early 1990s, the three commercial free-to-air broadcasting networks experienced average profits of 20–25 per cent during the decade, which was well above average industry profitability levels, while keeping to a minimum their payments to programme providers (Flew 2002). The Pay TV sector was inhibited in its development by policies that blocked its introduction and inhibited its capacity to acquire specialist programming, particularly in the highly profitable area of sport broadcasting (Westfield 2000).

The 1990s also saw the implications of international trade agreements for national broadcasting policy come to be of increasing prominence in Australia. Government agencies involved in the General Agreement on Trade in Services (GATS) negotiations sought to extend Australia's traditional support for multilateral trade agreements and trade liberalisation to the services sector, including broadcasting. Industry and civil society organisations, on the other hand, sought, ultimately successfully, for Australia to seek an exemption for audiovisual services from the disciplines of the GATS. The *Project Blue Sky* case, where the New Zealand audiovisual sector successfully challenged the exclusion of New Zealand material from the Australian content regulations, on the basis of Australia's obligations under the Closer Economic Relations (CER) agreement with New Zealand, revealed that laws framed for cultural reasons were unlikely to stand up against economic understandings of the nature of a service (Leiboff 2000). While the impact of the judgement on Australian television programming has been minimal, due to the lack of appeal of New Zealand programming to Australian audiences, the CER provisions have been seen by critics in Australia as a battering ram for enforcing conformity with GATS and other

provisions stipulated by international trade bodies such as the World Trade Organisation.

Conclusion: citizenship and convergent media in Australia

The relationship between citizenship and television regulation in Australia has been strongest in the use of regulation to promote national cultural citizenship, through Australian content regulations for commercial broadcasting, and government support for the Australian Broadcasting Corporation and the Special Broadcasting Service. Support for opening up avenues for greater public participation in media policy as a mechanism for extending political citizenship has been more sporadic and, ultimately, less significant or successful. An underlying premise of media regulation in Australia has been the relative scarcity of broadcasting spectrum and, as a consequence, the existence of a small number of highly profitable commercial broadcasting networks. Activism in the policy process that has utilised citizenship discourses in order to promote greater regulation of the commercial free-to-air sector has had, as its *quid pro quo*, the continuing existence of a small number of highly profitable broadcast media outlets, who can extend some of their surplus to pro-social purposes, such as the promotion of Australian content or children's programming.

Current Australian government policy towards digital television extends the logic of the *quid pro quo* into the convergent media domain. Current policy for the transition from analogue to digital television, developed by the Howard Liberal-National Party government since 1998, has mandated high definition television (HDTV), prohibited multichannelling by commercial broadcasters, required analogue and digital simulcasting until 2008, extended the prohibition upon new commercial broadcast licenses until 2006, and set restrictions upon the development of datacasting and interactive services that were seen as sufficiently onerous to lead to no bids for the datacasting licences that became available in 2001. As a result, digital television development in Australia has largely stalled, with only the ABC developing new digital channels, and the commercial broadcasters running HDTV programming very reluctantly and sporadically. It has, interestingly, been an openly partisan approach to media policy, favouring the incumbent broadcasters, and most notably the Packer family's Publishing and Broadcasting Limited (owners of Channel Nine, Australia's highest rating commercial network). Rupert Murdoch's News Corporation has been prevented from establishing a fourth free-to-air television network or a datacasting service that might, in the viewpoint of its critics, constitute a 'back door' means of entering Australian television broadcasting.

The Howard government's approach to the introduction of digital television in Australia has been widely criticised. Interestingly, the strongest and most cogent criticisms have come from the Productivity Commission, an agency within Treasury with responsibility for overseeing compliance with

current government legislation across a range of areas with the principles of national competition policy. The Productivity Commission's Report (2000) found that the Broadcasting Services Act (1992), was outdated, administratively complex, contrary to competition policy and other public policy principles, and an inadequate base from which to respond to the challenges of digitisation, technological convergence and new media services. It saw the 'policy settlement' that had informed Australian broadcasting policy as part of 'a history of political, technical, industrial, economic and social compromises' that had left 'a legacy of *quid pro quos* [that] has created a policy framework that is inward looking, anti-competitive and restrictive' (Productivity Commission 2000: 5). The Productivity Commission argued that in extending this logic of trade-offs and protection of incumbent broadcasters into a media domain that was likely to be profoundly different, government policy had placed 'considerable and arbitrary limitations on the innovative, interactive and additional services made possible by the technology of digital transmission' (Productivity Commission 2000: 256). The Commission argued further that, in an environment of pervasive technological change and uncertainty about the impact of new services:

It is not the time to add more *quid pro quo* bricks to the wall, but to take the opportunity to design a structure to serve Australians better. Greater competition, less regulation, spectrum licensing reforms, and the rapid release of spectrum are the best means of achieving this objective.

(Productivity Commission 2000: 254)

The moment of critique of current media policy by the Productivity Commission is an interesting one. Historically, the critique of media policy in the name of citizenship has arisen from a call for the use of media regulation to temper market power in a context of media scarcity, where a small number of free-to-air channels operate over a wide territory, and aim to reach broad audiences. The Productivity Commission is arguing that the public interest would be best served by reducing barriers to the entry of new players and the operation of markets, and that existing regulations increasingly serve the interests of media oligopolists and are contrary to the public interest. It bases its observations on the wider directions of media convergence and technological change which, it is argued, makes media more of 'another business' than critical accounts of Australian media have thus far been willing to accept (Schultz 1994).

It is at this point that it is important to consider John Hartley's thesis of broadcast media being used by its audiences to construct 'do-it-yourself citizenship.' It coincides with a trend that was rhetorically announced with the Broadcasting Services Act (1992), and which increasingly becomes a reality as we move from limited-channel to multichannel broadcasting, and from stand-alone analogue media to convergent media accessed across multiple

platforms. The wider implication of such trends is that television broadcasting becomes less of a unique entity, and more a part of the broader field of convergent service industries (DCITA 2000). The turn towards a services industry model can also be observed in the current round of GATS negotiations, where broadcasting sits as an audiovisual service alongside a raft of other services, and where so-called 'cultural exemptions' for local production are being quarantined around a narrowly defined audiovisual services area, while other areas such as advertising are reclassified as business services (Spurgeon 2001).

This is in contrast not only to historic constructions of broadcasting deriving from the 'public trust' doctrine and the dual nature of spectrum as both a public resource and private property, but also to recent constructions of television as a cultural industry, found in the Keating government's 1994 *Creative Nation* cultural policy statement, where television sits alongside the performing and visual arts, museums, heritage and film as a vital component of defining 'who we are' as Australians in an age of global culture (DoCA 1994). If broadcasting is increasingly taking the form of a service, then its relationship to citizenship requires some rethinking. In particular, it becomes impossible to present the citizenship model as something 'other' to consumption, as was common in debates about media policy in the 1990s. What requires consideration instead is the diversity of ways in which one can be a citizen, and the conditions under which equitable access to both public and commercial resources can be secured. It also entails thinking about regulation as something that keeps a check on the operation of markets in the 'public interest', but is also increasingly about 'making markets work', and realising the benefits of technological change (Collins and Murrone 1996). This also entails regulating for content abundance, in contrast to the historic regulatory regime of regulating broadcasting as a scarce resource.

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Part III

Regulation and transversal civil society in Northeast Asia

7 Civil society, regulatory space and cultural authority in China's television industry

Michael Keane

The question of why civil society presents such appeal for commentators, scholars and journalists writing about developing nations is an important one. The most likely explanation is that a kind of global faith exists in civil society as the driving force of a new world order. This global transformation, exemplified by the collapse of the Soviet bloc, celebrates people's freedom to participate in public discourse, and ultimately in processes of directly electing political representatives. In this sense the concepts of civil society and the public sphere come together to describe a global anti-authoritarian groundswell where the power of ideas is linked to global cultural development.

Civil society – in the Western tradition at least – is bound up with visions of the 'good society'. With their impeccable liberal-democratic credentials, civil society and the public sphere have come to symbolise a 'better society' for the Third World. Within China these ideas have been taken up by an increasing number of scholars. Likewise scholars and journalists in the Western hemisphere writing about China's reforms have felt impelled to 'find' civil society in China (see He 1995; Ma 1994).

However, definitional clarity becomes the first victim in the haste to celebrate evidence of emerging pluralism. For instance, the key element of liberal civil society is a normative separation between state and society. This reveals itself in the capacity of people to form associations, to participate freely in civic debates, and to influence social and political decisions. Civil society is often seen to be a buffer zone where non-governmental organisations (NGOs) and non-profit organisations (NPOs) take on social tasks such as providing welfare, areas where government is increasingly abdicating responsibility. It is identified with promoting trust and civility (Misztal 2001; Keane 1998). It implies governance through legal procedures rather than statist decree. In much emerging literature on authoritarian and patrimonial regimes, civil society is seen as a bright shining emblem, representing for some an inevitable transition to democratic forms of governance, marking out shifting boundaries between public and private. In many instances it represents an anti-hegemonic groundswell, typified by New Social Movements.¹ Applied to China, however, the civil society condition is not so

clear-cut – despite the increasing talk of emergent civil society in the Chinese countryside (Zhao 1999). In fact, its true nature in China has more to do with economic entrepreneurship than popular resistance to the Communist regime, or for that matter, acceptance of constitutional processes, citizenship ideals, and the rule of law.

In the first section I discuss the appeal of the idea of civil society to scholars of contemporary China. I argue that institutional conditions do not permit outbreaks of civil society activism as discussed elsewhere in this book. In effect, to attempt to view state–society relationships in China through what are essentially normative frameworks such as civil society obscures social and cultural differences that are distinctive to contemporary Chinese society and political culture. This does not mean that civil society is a redundant concept. It has a number of definitions and uses, some of which adequately describe social change in China, in particular, the growing awareness of civic rights. It can be usefully applied to economically driven political and social change in China, including the emergence of consumer society (Howell 1998; White *et al.* 1996; Keane 2001). And it encapsulates widespread changes in social organisation typified by intermediate and voluntary associations that form the basis of grassroots democratisation (Zhao 1999). However, its capacity to explain how cultural and media policy is formulated is limited.

In the second part of the chapter I look at the role of civil society processes in television policy formulation, implementation and enforcement. In order to clarify the processes involved in policy formulation I discuss how the idea of the public interest has been historically configured within Chinese socialist political culture. The public interest is contrasted with interest group explanations of the policy process. These models suggest a tension between ideology (the force of ideas) and embedded interests and coalitions within regulatory bureaus. I suggest that it is useful to use the heuristic construct of ‘regulatory space’ (Hancher and Moran 1998). This captures the relatively diminished role of public discussion and involvement in issues related to regulation. It also emphasises that ‘the only realistic mode of entry into regulatory debates is as a bearer of organisational interests’ (*ibid.*: 170). Regulatory space also refers to the range of actors involved in the regulatory process (*ibid.*: 153).

The next section discusses the problematic area of enforcement of the rules. While the rules and regulations pertaining to the television industry are formally enacted through the legislature, the actual substance of the regulations is informal and regulatory authorities exercise discretion in guidance. The machinations of the Chinese legal administrative system provide a clue to the flexibility of regulation. The Chinese legal system that evolved out of socialism was designed to protect the interests of the state with the result that no independent system of administering and enforcing the law was established. Furthermore, the Confucian emphasis on harmony and ‘self-governance’ made adversarial conflict unnecessary. Despite what we might term a historical background of ‘command and control’ or ‘rule by

law' sanctions associated with an authoritarian mode of governance, self-regulation has become the dominant mode of activity. This points to cultural factors determining the efficacy of regulation in the People's Republic of China, such as subcultures and relationships pervading organisations. The elasticity of guidelines and widespread non-compliance with policy – particularly the further the media organisation is from Beijing – are duplicated in social relations more generally, as I illustrate below. In the sphere of media regulation 'creative compliance' applies. According to Baldwin and Cave, this describes a 'process whereby those regulated avoid having to break the rules and do so by circumventing the scope of a rule while still breaching the spirit of the rule (Baldwin and Cave 1999: 103). In China this manoeuvre is described as 'playing edge-ball' (*ca bianqiu*) – a reference to the game of table tennis where the ball bounces on the edge of the table and is virtually unplayable.

Furthermore, the associated ideas of 'regulatory authority' and 'cultural authority' (see Reichman 1998) describe the role of interpreters involved in the negotiation of the 'rules of the game' and the interpretation of the behaviour of the regulated. As the rhetorical dimension of the governance of media industries allows for a high degree of bureaucratic translation, the interpreters of policy are bearers of a kind of authority that amounts to social capital (Bourdieu 1984). Emphasis is therefore focused on interpretation and implementation of the myriad regulations and the differential authority of interlocutory bureaucrats and propagandists.

Nevertheless there are embedded practices and procedures that are culturally specific. China does not have primary legislation governing the broadcasting sector, such as a national broadcasting law (*faliu*) (see Keller 2000). Media policies are framed most directly in terms of regulations or rules (*fagui*, *tiaoli*) and rules (*guizhang*). Policy is also subject to broad guidelines (*fangzhen*). Numerous provisional regulations and procedural orders ostensibly govern the day-to-day administration of media enterprises. The promulgation of China's Broadcast Management Regulations on 1 September 1997 was the first attempt to apply a comprehensive set of operational restrictions on the industry. The regulations have resulted in a reduction of the number of television operators and the enforced merger of stations at county level. For instance, the Handbook of Television Industry Regulation (1997) provides 480 pages of guidelines covering Pay TV, foreign content quota, co-productions, permits, and so on. It is beyond the scope of this chapter to enter into any specific discussion of these regulations, many of which are instances of ad hoc policy making. Due to the absence of a national media law that addresses freedom of speech, a fundamental premise of civil society appears to be non-existent. The following discussion will therefore examine the context of television policy rather than its contributions to good media governance.

That is not to say that television is just a government mouthpiece or that public discourse does not impact upon television regulation. Television

provides a vehicle for policy makers to gauge public response to social reforms, and ratings make available a means of calculating audiences. However, where programmes are produced to respond to burning social issues, they are carefully managed to give the impression that the ruling elites are not responsible. The impediments occur further down the food chain and news producers exploit issues that show that it is the moral failings of people, not bad policy, that is damaging society. Crackdowns on corruption, discussions of consumer rights, environmental vandalism and so on constitute the content of a particular category of national television programmes. In the final section I examine the evolution of programming that (arguably) represents the aspirations of the population governed, rather than the governing elite. The popularity of *Focus* (*Jiaodian fangtan*) *Oriental Horizon* (*Dongfang shikong*), and *Tell It Like It Is* (*Shihua shishuo*) demonstrates the grassroots social concerns of China's population. I ask whether this represents grounds for celebration of openness or whether it is just repackaged propaganda.

China's television industry: the regulatory structures

China's television industry has taken great strides during the past two decades, evolving from a public propaganda monolith during the Maoist period (1949–76) to a quasi-commercial broadcasting sector, large in scale, decentralised and increasingly financially self-reliant. The Chinese Communist Party rhetorical strategy of describing developments as 'contradictions' applies particularly well to the television industry. It is a hybrid of sorts, a state-broadcaster with commercial pretensions surrounded by, and embedded within, the commercial television mediascapes of Taiwan and SAR Hong Kong whose product increasingly fills schedules and influences the shape of domestic content (see Keane *et al.* 2003, forthcoming).

Despite this, the broadcasting sector is still state-owned and, in principle, subject to central policy making. However, the effect of devolving more financial responsibility to broadcasters over the past two decades in order to promote market efficiency and local investment, has weakened the effectiveness of central administration, creating policy fiefdoms within central administrative bureaus as well as in the various broadcasting organisations at municipal, country and township levels. These 'turf wars' (Ure and Liang 2000) have been exacerbated by the convergence of broadcasting, telecommunications and computing, and by China's entry into the World Trade Organisation. In short, convergence and internationalisation have raised the stakes for economic exploitation of content. It is not only the state that seeks to gain from new media but a range of players – some working within state institutions, some private operators with connections to powerful bureaucracies, and others (mostly foreign interests) desperately trying to understand the nature of regulation.

The problem of understanding who is responsible for television regulation has been compounded by a major restructuring of ministries that

occurred in 1998. In March of that year the Ministries of Post and Telecommunications (MPT), and Electronics Industry (MEI), and parts of the Ministry of Radio, Film and Television (MRFT) merged to form the (super) Ministry of Information Industry (MII). The role of the restructured ministry is to oversee management of Chinese information networks and co-ordinate state policy on the construction and management of electronic media. Ure and Liang (2000) contend that while this may appear on the surface to constitute a convergence of policy, along with the convergence of telecommunications, broadcasting and computing, it can be more accurately assessed as an overhaul of the budget and a pruning of the bureaucracy.

The restructuring has seen the downgrading of the MRFT to become the General State Administration of Radio, Film and Television. The SARFT's role is primarily to license and censor content on broadcast networks and to manage the country's existing broadcast infrastructure (CMMI 2000: 11). The SARFT is under the direct supervision of the State Council, the primary governmental administrative organ, but in terms of its content monitoring responsibilities the SARFT receives direction from the Central Propaganda Department under the direction of the Chinese Communist Party. It is important to note that the Chinese Propaganda Department and the SARFT is replicated in the organisational structure of Chinese television stations from centre to provincial to municipal level. That is, a station director will be responsible to the SARFT and there will be a designated propaganda representative to oversee programme content.

Lieberthal and Oksenberg (1988) discuss the idea of 'systems' as a central organising concept in the way that high-level policy decisions are made. Under the Chinese bureaucratic model each central ministry or State Council commission heads its own system (*xitong*). These are silo-like organisational structures that are often in competition with other silos. Ure and Liang also see the idea of policy convergence within the new MII organisational *xitong* as flying in the face of what they call the 'bargaining model' of policy making in which various players are challenging for a slice of the new information infrastructure. That is, putting all the players into a giant silo is unlikely to overcome institutionalised affiliations. For instance the MII *xitong* has identified itself as a regulator of the cable television industry particularly with the extension of broadband capabilities to most of China's major cities. Not surprisingly, given its major role in the development of China's cable television industry as the former MFRT, the SARFT sees itself as an important player in this lucrative industry. The idea of contending positions within these *xitong* has been explored in more detail by Daniel Lynch (1999) particularly in relation to telecommunications. Redl and Simons (2001) offer a similar assessment of the relationship within the MII and SARFT, arguing that continued government control over what are essentially commercial media operations has meant that each executive branch fights for its own interests rather than working together for combined solutions.

New regulations for new times

The rationale for regulation of television has changed during the past two decades. If we take for instance the standard paradigm that Chinese communications industries are evolving from plan to market, we might conjecture that the Chinese television stations are state-owned enterprises aspiring to become fully-fledged autonomous commercial broadcasters. The open markets scenario that is the end point of the gradual liberalisation of China's media markets has a certain end of ideology aura (Fukuyama 1992). However, despite the decentralisation and deregulation of China's broadcasting sector over the past two decades, the optimism associated with the plan to market typology is flawed in several respects.

First, plan to market suggests that commercialisation will lead to significantly less regulation by the state: that is, the idea that commercial broadcasters are significantly autonomous and will respond to pluralist forces such as interest groups. As I will argue in this chapter, the deregulation of television broadcasting in China has not led to greater regulatory space but to greater regulatory capture and creative compliance strategies on the part of television producers. As the social goals of regulation are challenged by the economic incentives of advertising revenue, local government propaganda officials who are charged with scrutinising content are tempted to be more lenient in the interest of the local broadcaster.²

Second, while the deregulation of China's broadcasting sector has resulted in liberalisation of the industry in terms of allowing new domestic entrants, China's television industry remains quarantined from direct foreign ownership. In fact, the lack of regulation over domains such as intellectual property and market access remains a disincentive for foreign broadcasters to become major players in the Chinese industry (see Keller 2000).

Third, broadcasting is a very cost-intensive industry. The fragmented nature of China's broadcasting sector (some 800 terrestrial channels and 2,000 cable stations), does not lend itself to profit-making and risk-taking. Media markets have a propensity to fail as film and television dramas are high-risk ventures. The competitive nature of media inevitably results in industry consolidation and rationalisation. The nature of China's television industry is symbiotic rather than cut-throat. It is in the interests of China's television stations to survive rather than to take risks. This entails different strategies of cooperation between broadcasters. However, given the enormous number of television stations and their reliance on the state for basic infrastructure, there is a lack of effective industry lobbying as is found in open markets.³

Regulation: from social to economic

A very different regulatory scenario now confronts China's broadcasting industries compared with the Maoist period (1949–78), when the communi-

cations industries were fully funded loss-making propaganda institutions. The cost of funding these institutions was measured against their perceived social benefit, a version of public interest theory in which the state assumes that tight control of information and the nationalisation of broadcasting is a central factor in national security and development planning. As a result of this legacy, we find a fairly generic set of regulatory principles that have been passed down from the halcyon days of revolutionary Maoism. These principles include such things as not publishing any material that endangers national unity and territorial sovereignty; that incites divisions or dangers among minorities; or that contains any content prohibited by law or administrative regulations (*Guangbo dianshi guanli tiaoli* 1997).

Whereas regulation during the Maoist years was primarily about content control, its function today is as much about connectivity. During the Deng Xiaoping economic reforms of the 1980s and 1990s, broadcasting regulation became concerned with providing China's remote populations with access to television. The extensive use of satellites was embraced by the Chinese government as a means to extend the coverage of television signals. All twenty-five provincial level channels now utilise satellite technology and the estimated reach of the national television signal is 92 per cent of the total population (Li 2001).

The economic reforms that have culminated in China's entry into the World Trade Organisation have brought about many changes in society. Perhaps the most significant change is the inculcation within the industry of the fundamental market principle of supply and demand. Nevertheless, China's television industry remains a hybrid state-owned enterprise, a public broadcaster made up of many parts – a public institution embracing new publics who are demanding better and more varied services. The cost of providing greater quality offerings and customised programming has made continued government subsidy difficult. The reasons for regulating in today's media environment are therefore different from two decades ago. The social 'good' of stability has now been forced to share the regulatory stage with economic considerations pertaining to media industries, including foreign investment, taxation revenue, programme rights and advertising regulation.

While content is still scrutinised, propaganda officials within television organisations are increasingly inclined to adopt the view that the station's interests lie in maximising revenue as much as functioning as the mouthpiece of the Chinese Communist Party. This is not to say that the economic turn has liberated the television industry from state capture. The economic benefits that might be generated are constrained by bureaucratic impediments that are a legacy of a planned system: for instance, competition between regulatory bureaus for a slice of the profit. In this sense, while there may be advantages for some parts of the industry to progress to a free market model, there are advantages for many in existing within the cocooned policy making environment that has evolved out of the planned economy.

Civil society and public spheres

The relationship between television regulation and civil society is therefore difficult to cement, in particular the broadest sense that a 'civil society' is one in which citizens participate to the fullest in public affairs (Vatikiotis 2000). However, this is probably the most relevant point of entry in understanding the concept of regulatory space that best describes the nature of television regulation in China today.

As mentioned in the introduction, there is extensive literature on both civil society and the public sphere in China, mostly framed in the neo-Gramscian context of civil society as a vehicle to destabilise the power bloc – in this case the Communist Party of China (CCP). There are, moreover, according to He Baogang, a number of inconsistencies in the way that it is used in China (as indeed there are in the Western literature) (1995).

Nevertheless, despite definitional fuzziness, civil society is emerging as emblematic of the shifting boundaries between the public and the private in China. The increasing emphasis on economic development and personal wealth over the past two decades has re-invigorated the idea of society as distinct from the state. Economic reform has in the words of some of China's civil society scholars promoted the ideal of 'big society and small government' (see Zhao 1999). Considering Marx's view that civil society was the sphere of private egotistic interests of the capitalist class (Miszta 2001), its past neglect by Chinese ideologues is not altogether surprising. Civil society's bad name during the revolutionary period (1930s to 1978) was primarily due to the fact that it was redundant to a form of statecraft based on obliterating distinctions between state and society and making everything public. As the public came to depend on government for employment, healthcare, housing and many commodities, power was skewed towards those with the authority to dispense benefits. The recent academic interest in the concept of civil society within China is indicative of the growing disillusionment with arbitrary official authority that has stymied individual rights and freedoms.

The term that is mostly used by academics to define civil society in China is *shimin shehui* (literally, towns-peoples' society). Debates about the nature of Chinese civil society date back to the 1980s (see He 1995; Ma 1994). He Baogang notes that the term *shimin shehui* has been used by critical intellectuals to describe a sphere of resistance to state hegemony embodied in a 'profession society', a 'grey society' and a 'centred society' respectively. All these descriptions pointed to Chinese intellectuals' disillusionment with the negative aspects of the former Maoist society in which the Chinese Communist Party prohibited individual rights, voluntary associations and open criticism of society.

An alternative term to describe civil society is *gongmin shehui*. This usage is most common in the Taiwanese literature and is a more direct translation of citizen (*gongmin*). However, *gongmin* does not have widespread currency in the People's Republic of China despite recent attempts by the government

to propagate a citizen's consciousness (*gongmin yishi*) (see Keane 2001a). The re-emergence of the citizen concept, in both the *gongmin* and *shimin* forms, can therefore be attributed to a desire on the part of Chinese leaders to deal with the question of appropriate conduct and social obligation under a new social compact, that of a market economy.⁴

Above all, citizenship has a moral component in China, associated with the term 'civic virtue' (*gongde*). The impetus for moulding a new type of moral citizen was adopted as the object of the Chinese Communist Party's initial 'socialist spiritual civilisation' movement, which was implemented in September 1986. According to Ma Shu-yun, the rewriting of citizenship within a 560-page tome entitled *The Citizens Handbook* (*Gongmin shouce*) coincided with intellectual debates questioning the emergence of a Chinese civil society during the mid-1980s – what the Ministry of Civil Affairs referred to as social organisations (*shehui tuanti*) (Howell 1998: 62).

While the Chinese government has attempted to manage the concept by linking civil society and voluntary associations to civic virtue (*gongmin yishi*, *gongde*) (see Keane 2001a), civil society discourse is increasingly amenable to the economic reform process that has culminated in China's entry into the World Trade Organisation. Civil society is in turn promoted by supranational agencies (such as the WTO, IMF, World Bank), multinational actors (IBM, FCC) and non-government organisations (Médecins sans Frontières, Save the Children, Ford Foundation, Amity) with a stake in promoting democratisation, humanitarian aid and good governance.

A feature of the civil society debate in contemporary China, both on the part of Western commentators and critics writing within China, is the associated imagery of a functioning sphere of civic discourse (Kluver and Powers 1999; Ma 1994; Huang 1993). The public sphere has emerged as an emblem of pluralism, particularly in the context of Internet chat rooms and bulletin boards, which according to some accounts are eroding the capacity of the Communist party to manage information. Jürgen Habermas's visits to China in 1999 and 2001 have no doubt helped to promote intellectual debate about the public sphere. However, while there is increasing tolerance of critical opinion this does not constitute a classic public sphere in that all organs of communication (television, press, academic journals) are subject to some form of jurisdiction by the government – as are all NGOs and NPOs (Zhao 1999). It is in this sense that a description of civil society as the third society – the quasi-legal zone of activity of the black market and the Triads – comes closest to the idea of separation of state and society, although there is even a problem with this image as there are known linkages between officials and criminal activities.

Media and the Chinese public

As in most countries, media policy in China is framed by notions of 'the public good' or 'the public interest'. The nationalisation of media industries

under socialism was closely linked with national development and social control. For these reasons access and content were the key elements of television policy: in other words, it was necessary to ensure that all people could receive television signals and that the content of the broadcast was in accord with determined guidelines. It is only since the 1980s that media policy has been directly concerned with economic regulation and ensuring the conditions for a viable industry (see Lee C-C. 2000). The preoccupation with content, however, is not surprising given the Leninist-derived notion that the media's role was to reflect social conditions, not to create social division.

Understanding the role of policy making is therefore important in conceptualising the changing relations between government and the public in China. Officials responsible for formulating policy (at the elite political level) and monitoring content (at the television station level) are all members of the Chinese Communist Party. During the high tide of socialism from the 1950s to the late 1970s, the public official was generally regarded as a person one could trust. Of course, there were officials who were predisposed to abusing their authority, but, in the main, they were considered as persons of authority in whom the public could trust. The public interest – understood as guiding the consciousness of the uneducated peasantry towards an understanding of socialism – was, in turn, guarded by the Chinese Communist Party through its network of officials.

The image of the good official single-mindedly devoted to the people (*renmin*) suffered during the 1980s as more and more officials were found to be on the take. Likewise the model of policy-making based on the public interest came to be less plausible with the increasing competition between factions and interests within the party machinery. Studies of economic, energy and agricultural policy during the 1980s concluded that there was in fact significant participation in policy-making (Lieberthal and Oksenberg, 1988). Interest group theory was thus promoted as a way of describing the process by which various interest groups influenced policy formation. However, the question remains as to why people in China have generally failed to organise themselves into pressure groups to influence policy.

Understanding the network system therefore provides more clues as to how political participation occurs. In China the ability to influence associates and officials is a more useful strategy than political lobbying, which may have led to one's group being identified as troublesome. From this understanding it is possible to map out relations of reciprocity extending both vertically (up the power hierarchy) and horizontally (across social formations). The idea of a Chinese social contract has been addressed by Cheng Xiaoneng (1999), who argues that in contemporary China both the regime and the population contribute something the other needs for its own survival. The corollary of this is that this cannot be a 'social contract' if the populace cannot influence how benefits are bestowed (*ibid.*: 113). This understanding of how power is transferred and benefits are obtained is the basis of social transactions (see Yang 1996).

Regulatory space, cultural authority and creative compliance

In their discussion of regulatory space, Hancher and Moran note that 'the purpose and character of economic regulation is in part a function of the nature of the surrounding legal culture' (1998: 149). As mentioned in my introduction, the Chinese legal system that evolved out of socialism was designed to protect the interests of the state, with the result that no independent system of administering and enforcing the law was established. However, the social contract of reciprocity at all levels that has evolved provides a clue. Despite what we might term a historical background of 'command and control' sanctions (otherwise termed 'rule by law' and associated with an authoritarian mode of governance), self-regulation has become the dominant mode of activity.⁵ This points to a combination of cultural factors and legal factors determining the efficacy of regulation in the People's Republic of China. The key issue is that civil processes such as the rule of law and contract are only loosely administered in China. If we are to talk about interest articulation in China, we find that it occurs at different levels of government and at different stages of the policy process.⁶ As in most countries, policy is invariably influenced by powerful forces: in China not so much in a direct manner by private interests, but by institutionalised factions within China's bureaucracy, often with links to private interests. Producers are therefore 'takers' of regulation. However, many producers will, out of political expediency, make their own arrangements with officials, bureaucrats and censors in the different levels of broadcasting bureaus. The regulatory authority owned by such people is similar in many ways to Bourdieu's notion of social capital (1984), only that in China this authority is earned through bureaucratic rank (Lieberthal and Oksenberg 1988: 142–3).

As Shi (1997) maintains, the policy process in China is predicated on a different mode of governmental communication. In the Western liberal-democratic tradition policy is underscored by law: policy is formulated as rules and legal regulations that are precise and specific. The important point here is that using law to convey government policies deprives bureaucrats of the possibility of interpreting policies according to their own interests at the policy implementation stage. It is also difficult for ordinary people to pursue their interests at this stage. This means that attempts to influence decisions are directed at the policy formulation stage, hence the emphasis on interest group activity and prepared submissions to regulatory commissions. And while it can be argued that there is always the possibility of avoiding the letter of the law, generally the danger of being taken to court acts as a deterrent.

In contrast, the mode of political communication in China is documentation: written reports, oral communications and speeches, which are often imprecise and vague in their language. And in contradistinction to law, documents are not required to be open to the general population. Broadcasting policy – particularly that relating to the regulation of content

– is subsequently formulated in document form by leading groups drawn from the Propaganda Department, the Ministry of Culture, China Central Television, the Ministry of Information Industries (MII) and the State Administration of Radio, Film and Television (SARFT).

So far there is little evidence of a wide canvassing of opinion. Of course, there are considerations that will apply to matters that are deemed technical that will differ from the more sensitive content related issues. Elsewhere (Keane 2001b) I have discussed the distinction that exists between ‘high’ and ‘low’ political culture in China. This is the idea that there is a range of issues that are more politically sensitive – as distinct from everyday or technical concerns. For instance, the discussion of regulations concerning foreign investment, foreign content quotas, and so on, are quarantined from wider scrutiny. Low politics might entail issues related to the amount of advertising allowed per hour. As Hancher and Moran argue, regulatory space is first and foremost a space, but one in which there are major and minor participants (1998: 153). The idea of regulatory space also suggests that the range of regulatory issues may be limited according to various industry sectors, which is the case in China in relation to media, a much more constrained regulatory space than agriculture, for instance.

The idea of regulatory space illustrates the relatively narrow scope of public participation in high politics. Nevertheless, in the process of making policy related to the management and development of television industries, expert opinion may be solicited from senior intellectuals within media institutions such as the Beijing Broadcasting Institute or the Journalism Department of the Chinese People’s University.

The question remains as to what kind of role intellectuals and other interested industry players contribute to these processes. The Chinese television industry provides some clues as to assessing the contestation of broadcasting policy within the vagaries of the Chinese policy process. This is largely due to the sheer size of China’s television industry and the difficulties associated in managing and policing its operation. Under the system of central control of communication that prevailed until the mid-1980s, television stations enjoyed little autonomy in programming. Deregulation of the television industry passed significant decision-making authority over to local administrators and officials. Many of the decisions that were subsequently made were commercially driven and done in an ad hoc fashion without referral to high-level authority.

The policy communication system that predominates in relation to television is that of documentation. For instance, *Television Research* (*Dianshi yanjiu*) the scholarly journal published by the national broadcaster, CCTV, invariably leads off with an article by a political heavyweight: often the text of speeches by President Jiang Zemin, the Director of the Propaganda Department, or the Minister of Culture. These speeches or articles are delivered in an abstruse form utilising terminology such as the ‘two fors’ *fangzhen* (direction) (art for socialism and the people) and ‘the double hundred’

zhengce (policy) (allowing a hundred flowers to bloom, a hundred schools of thought to contend). Other policy rhetoric incorporates dialectical relationships. The 'two hands policy', for instance, extols the political wisdom of one hand holding tight (management) counterbalanced by the other hand relaxed (allowing autonomy). Likewise, the policy of diversity (*duoyanghua*) is held in check by 'upholding the mainstream melody' (*zhuxuanlü*). There are also semantic distinctions and different weightings between terms like *fangzhen* (guiding principle), *zhengce* (policy), *guiding* (stipulation) and *guizhang* (regulation).

However, since decisions made by governments have to be implemented to realise goals, formulating a policy begins but does not complete the policy process. Policy is communicated, in the first instance, in the form of guidelines or regulations. It is then disseminated to heads of television and radio stations. The original document is usually followed by an article penned by a vice-minister, as well as a series of articles by editorial staff extemporising on the significance of the document, perhaps adding statistical data about production and consumption. In this way, the role of intellectuals is in making interpretations of policy. Producers and others who read interpretations by persons of some authority might feel justified in taking liberties with the text of the original document.

The print media also play a leading role in disseminating law to the general public. In fact, media (including official newspapers, radio, television, as well as trade journals) play a dual role: they propagate the text of statutes and regulations that impact upon society, and they interpret and popularise this information (Lee T.V. 2000). Moreover, while a space for civic discourse might exist in the Chinese mass media (see Kluver and Powers 1999), its effectiveness as a counter-hegemonic force is reduced by its institutionalised nature and dependency on official sanction. This is not to deny the fact that liberalisation, economic reform and the ascension of moderates to power in the Chinese politburo have contributed to an expanded capacity for non-official views to be expressed in China.

Programmes

The idea that television might teach its audiences about citizenship is a prime motif of Chinese writings on the media, despite the fact that the concept of the citizen is not directly invoked. Since the period in the 1940s, when the People's Republic was born out of violent revolution with the nationalists (Guomindang), the mass media have been central to public education. In fact the four functions of 'television culture' in China are: information dissemination (*xinxi chuanbo*), the provision of aesthetic enjoyment and entertainment (*shenmei yule*), social regulation (*kongzhi xietiao*), and education and service (*jiaoyu yu fuwu*) (*Television Arts Dictionary* 1991: 24–5). China's two national networks, China Central Television (CCTV) and China Educational Television (CETV) provide a range of programming

ostensibly directed at educating, informing and guiding public opinion. CCTV currently runs nine channels relayed via digital compression satellite throughout the country.

Most of the programmes screened by CCTV have a direct educative function, including the national news broadcasts (*xinwen*), variety shows (*wanhui*), investigative programmes, consumer and economic information shows and children's shows. While Chinese programme makers are directed towards their social obligations, it is more problematic to suggest that television shows in China contribute to the growth of civil society or a well-functioning public sphere. The main impediment to the formation of civil society through television programming is that there is no tradition or precedent of an adversarial system of news reportage, as has been the case, for instance, in the former British colony of Hong Kong described by Paul Lee in Chapter 8. A case that illustrates this point occurred in October 2000 during CCP President Jiang Zemin's visit to Hong Kong when a locally-based reporter was lambasted by Jiang for being naive and unscrupulous. The reporter had asked Jiang about the succession to the appointment of Tung Chee-Hwa, suggesting that Jiang had acted in an imperial fashion in the appointment of a successor. This was a similar question asked by the American *60 Minutes* programme, but Jiang took offence at the Hong Kong reporter's question, saying that the reporter had acted irresponsibly.

What Chinese television does encourage is responsibility. Moreover, programming creates the *impression* of pluralism without creating scenarios that directly criticise the leadership of the CCP or their families. Examples of Chinese investigative journalism screened nationally on CCTV include *Oriental Horizon* (*Dongfang shikong*), *Focus* (*Jiaodian fangtan*) and *Tell It Like It Is* (*Shihua shishuo*).

These programmes attract large numbers of viewers who tune in religiously to witness the exposure and shaming of corrupt individuals or businesses and frank treatment of well-recognised problems of society such as pollution and bureaucracy. The first of these programmes to be broadcast was the morning programme *Oriental Horizon*, which began in May 1993. So successful was this venture in gathering audiences and advertising that it was described as a 'special economic zone' in the Chinese TV industry (Li 2001). After an eight-month trial, CCTV then broadcast *Focus*, following the evening national news broadcast. A fifteen-minute current affairs programme, *Focus* soon established a dedicated audience. Its most famous 'scoop' occurred on 12 November 1998, following the exposure of a state-owned grain barn in Nanling county in Anhui Province, one of the poorest areas of China (*ibid.*: 7). The Chinese Premier, Zhu Rongji, had visited this barn and was shown sacks of grain stacked from floor to ceiling. Zhu was lavish in his praise of the local officials. Later the *Focus* investigative team uncovered that the officials had 'borrowed' grain from other areas in order to create a memorable impression for the Premier. Earlier the same year Zhu had visited the production studios of the programme and commended the producers:

In unmasking problems within [the] government Focus has represented the public interest and given ordinary people hope and confidence. I am also one of the officials who should be monitored by Focus. If I were to do something wrong, I would be criticized by your programme.

(*China Central Television Yearbook* 1999: 2, cited in Li 2001: 8)

Despite this effusive praise and the suggestion that senior officials be subject to the same scrutiny, these programmes tend to chart a course exposing venal officials and consumer rip-offs, rather than challenging the ideological foundations of the Chinese Communist Party. It is unlikely that Zhu Rongji would be put under the spotlight unless he was suddenly ousted from his position of authority within the Politburo.

Conclusion

Instead of functioning as a public sphere, these programmes create a popular impression that the media is the watchdog of social injustices. This is the central problem with trying to massage the civil society idea onto Chinese media policy. While civil society might succeed as a descriptive device to indicate an increasing separation of government and society in China, and while there is a feeling that NGOs are operating within Chinese civil society, the relationship between civil society and the television industry is at the best tendentious.

This lack of civil society is due to the legacy of an authoritarian system and its embedded systems of influence and compliance. Whereas citizens in liberal democracies seek to influence the formulation of policy by the force of ideas, by interest group activities, and ultimately through the ballot box, this cannot be said of China. Under the Chinese socialist tradition, we find a different mode of political participation in which the balance shifts towards interpretation of policy. This allows Communist Party officials and bureaucrats to function as translators of the administrative language of policy and to grant dispensations to cultural producers. Rather than seeing this solely as evidence of the fragmentation of central control it is more accurately represented as a combination of institutionalised social practices and emerging entrepreneurialism.

If there is discussion of policy it invariably happens after the formulation stage. This is in contradistinction to prevailing practice in liberal civil societies where interest group politics utilises 'due processes' to influence policy formation. However, this does not mean that the Chinese government does not promulgate extensive rules and regulations pertaining to the broadcasting sector. Policy is disseminated from the top down, it is extemporised on, interpreted and discussed. It becomes more specific in relation to technical matters in the process, but, at the same time, it becomes more open to defiance and abuse. The further away from Beijing, the more we find evidence of 'edge-ball' activities or creative compliance.

There is, however, a challenge to this system. China's accession to the WTO has committed the government to enforcing legal and constitutional reform, and to allowing foreign media companies more access to China's audio-visual markets. It is quite reasonable to suggest that China's Ministry of Information Industry will become a law-taker as much as a law-maker as the disciplines of WTO accession make market liberalisation a reality. The once hermetically sealed sphere of domestic policy making is challenged by the internationalisation of media governance as copyright protection regimes (TRIPS) and multilateral and bilateral trade agreements impact upon cultural sovereignty (Keane and Donald 2002; Redl and Simons 2002). In the context of the globalisation of business regulation and the securing of direct foreign investment, the MII will assume a leading policy making role that will entail dealing with international broadcasting organisations and corporations. The SARFT, meanwhile, will continue to censor audio-visual content and manage the existing broadcasting infrastructure. While the institutional environment will remain distinctly Chinese with 'turf wars' continuing between entrenched interests, the regulatory space of policy making is likely to be subject to pressures from the market to be more inclusive and more consultative.

Notes

- 1 The most complete discussion of the various elements of civil society is to be found in the work of John Keane (1998).
- 2 For a good example of this, see Brian Shoesmith and Wang Handong (2002), 'Networks and Industrial Community Television in China: Precursors to a Revolution', in S.H. Donald, M. Keane and Yin Hong (eds) *Media in China: Consumption, Content and Crisis*, London: RoutledgeCurzon, pp.179–91.
- 3 While there are associations such as the City TV Stations Associations (currently headed by Xian TV) that make submissions to regulatory bodies, it cannot be said that they have any real influence on high-level policy making.
- 4 Governmental civic campaigns in China are similar in some respects to those instituted in Singapore by which good citizens are regaled as contributing to national prosperity and shunning deviant behaviour. The Chinese government views the Singaporean mode of governmental regulation of culture as a model for China. However, the differences between the two nations are significant. Singapore's population of approximately 3 million allows the state regulatory mechanisms to work effectively.
- 5 The term *fazhi* in Chinese has an ambiguous meaning. In the context of reform of Chinese regulatory structures in accordance with World Trade Organisation dispute resolution architecture, it is translated as 'rule of law'. However, the term *fazhi* in the Chinese legal system has conventionally been applied to criminal sanctions and translated as 'rule by law', handing (often arbitrary) judicial power to party officials and magistrates. Alternatively, the use of 'rule of law' in current negotiations about the reform of China's media apply more specifically to the harmonisation and public dissemination of legal rules, leading to a shift from government towards governance.
- 6 Associations do exist in the Chinese television industry but their function has been directed more towards facilitating business alliances between the various levels of broadcasting. For instance, the City TV Stations Association works

with the SARFT to promote greater network cooperation among stations in the provincial capitals and second- and third-tier cities.

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8 Television in the formation of civil society

The role of a non-controversial public space in Hong Kong

Paul S.N. Lee

Introduction

Television first appeared in Hong Kong in 1957. It was a cable television service run by the Rediffusion Company which had operated a highly successful wired sound broadcasting service since 1949. Hong Kong was the first British colony to have television. But the Rediffusion television service was very expensive. Its monthly subscription fee was HK\$55. In 1958, a technical worker's monthly wages were HK\$360 and an unskilled worker earned only HK\$75 (Hong Kong Government 1959: 32). A year before the introduction of free-to-air television in 1967, Rediffusion television had only 67,000 subscribers (Hong Kong Government 1967: 206). Thus before 1967 television was an elite medium and its social impact was minimal.

After the introduction of free-to-air television in 1967, however, television penetrated rapidly and became a genuine mass medium in 1970s. From then onwards, Hong Kong witnessed great changes, among which were the formation of a distinctive Hong Kong cultural identity and the emergence of an autonomous civil society.

This chapter examines the development of television in Hong Kong accompanying the socioeconomic changes. I conclude that television provides a public space for Hong Kong people to interact among themselves, contributing to the formation of a civil society which is distinctively different from the previous ones. Before the emergence of television as a mass medium, most civil associations were state-sponsored or oppositional in nature. The civil society that emerged after the 1970s was one which has shown great autonomy from the state and has existed alongside the state peacefully without subverting state control or submitting itself to the arbitrary rule of the state.

Civil associations in Hong Kong

There has been much discussion of the concept of civil society. The concept has been criticised for lacking precision. It is not clear if it is an aspiration or a sociological condition; hope often replaces analysis. In much of the

twentieth century, according to Hall (2000), the state has been taken as a moral project, with virtue accordingly seen as a proper object of political action. However, the state's engineering of human souls destroyed any conception of a private realm free from political interference. The end result has been massive murdering of tens of millions of people. In Europe civil society became a slogan in reaction to the brutal costs of social revolution.

The democratisation movements of Southern Europe popularised the term in the 1970s, hoping that strong, autonomous groups would balance state power. Intellectual opposition in Eastern and Central Europe took matters further. It dreamt of a societal self-organisation so complete that politics would not be necessary. The most striking characteristic of the recent discourse about civil society has been its anti-statism. At best, the state is allowed to be present just so long as it is controlled or balanced. However, Hall (2000) argues that anti-statism will not do as a general characterisation of civil society, either in the abstract or as a description of the ways in which the term has been used in the past. The removal of a large and predatory state did not and does not ensure decency in social life. Without the state, chaos is ensured.

What is needed, according to Hall, is both a curtailment of despotism and a re-creation of trust so as to allow functional tasks to be performed more effectively by the state. Hall argues that a civil society is one in which there is cooperation, rather than mere balance, with the state. What is needed is a politics of reciprocal consent.

He points out further that another analytic weakness of the recent anti-statist view of civil society has been the uncritical adulation of social groups. Powerful societal self-organisation does not necessarily make a civil society. Many groups have been no more than sealed cages: castes, tight kinship links, sects – and often these are in a constant state of war with each other. Aristotle conceives of the state as a realm free from kinship links and thus a necessary protector of civil relations. Certainly, despotic power is an enemy of civil society, but civility is not necessarily grounded in the absence of the state.

The proper definition of civil society must accordingly concentrate on the individual's right to choose a pattern of development within a world populated with open groups in agreement on the need to respect a measure of diversity in social life (Hall 2000: 51). This chapter subscribes to this idea and treats civil society as an autonomous entity, without necessarily assuming an anti-state character. I define civil society, using Hall's idea, as 'a form of social organisation stressing an individual's right to choose a pattern of development within a pluralistic world with diversity in social life' (*ibid.*: 51). Since it is a form of social organisation, there could be multiple civil societies within a national or geopolitical boundary.

In Hong Kong, the notion of civil society also lacks precision. The literal translation of this term from Chinese is 'citizen society'. In the Hong Kong context, the notion of citizenship puts more stress on social obligations rather than rights. When the term citizenship is used, it often connotes

'fulfilling citizens' obligations' rather than 'exercising citizens' rights'. For example, in the legislature's election campaigns, people were urged to vote in order to 'fulfil citizens' obligations' rather than 'exercise citizens' rights'. This emphasis on citizens' obligations in civil society has to do with the colonial history of Hong Kong.

Hong Kong was ruled by an authoritarian state up until the 1980s when a cultural-based civil society started to emerge and be aware of its own existence – becoming a civil society *for itself* (Ip 1997). Before the 1980s, Hong Kong's civil associations were small, fragmented, often non-political and state-led. They can be divided into four types: co-opted societies formed by the wealthy Chinese class, public organisations initiated by the government, institutions inherited from traditions, and politically oppositional groups. The first two categories were state-led, while the third was tolerated and the fourth was discouraged by the state.

The co-opted civil associations formed by the Chinese elite class included the Tung Wah Hospital established in 1869 and Po Leung Kuk established in 1880. They took up charity activities such as helping the sick, poor, orphans and abducted women. The second type of state-led organisations included Kaifong Welfare Associations in the 1960s and Mutual-Aid Committees in the 1970s. They served as vehicles to help government achieve its goals such as liaison with local people and anti-crime activities.

For institutions inherited from tradition, the Man Mo Temple is a good example. It began as a body to coordinate social and religious activities, but later became an unofficial local government board to adjudicate civil disputes in the Chinese community. The Man Mo Temple Committee comprised Chinese representatives from all of the different districts in the territory (Thomas 1999: 139). Its influence declined after the Second World War.

In the fourth category of civil associations are those which present an oppositional force against the state such as the trade unions and political groups. These organisations usually have ties with political parties in mainland China. The Seamen's Strike in 1922, for example, was organised by activists associated with the Chinese Nationalist Party in Guangdong. Many of the anti-state social groups in Hong Kong before the 1980s were offshoots of Chinese political parties, either the Chinese Nationalist Party (Kuomintang) or the Chinese Communist Party (CCP). These oppositional forces were suppressed or restrained by the colonial regime. In 1950, for example, when the leftist Tram Workers Union organised a strike, the police raided and shut down the Union office, followed by deportation of twenty union staff, including the chairman, to China.

None of these civil associations, except the oppositional ones, were autonomous from the state. The Tung Wah Hospital, Man Mo Temple, or Kaifong Welfare Associations had the blessing of the government. This explains in part why the notion of civil society in Hong Kong stresses citizens' obligations more than rights. Oppositional civil associations were discouraged and harassed by the state. These civil associations were frag-

mented, isolated and disunited. They did not coordinate among themselves or share a common platform vis-à-vis the state.

In the 1970s, however, accompanied by economic growth and political separation from China, there emerged a new kind of civil society which was neither co-opted, nor oppositional. It was autonomous yet non-confrontational; united yet no concerted demands were made of the state for action. The civil society that emerged in the 1970s was representative of various interests existing side by side with the state. It was a self-conscious entity which advocated social interests in dialogue with the state.

This civil society was formed on the basis of a distinctive cultural identity among the populace of Hong Kong. The Hongkonger's identity is different from that of the colonial rulers' or the traditional Chinese identity. With the assumption of a Hongkonger's identity, civil society is no longer the same as before. It is a *culturally based* civil society, possessing an autonomous and separate status from the state, and with great representation of the community.

This culturally based civil society does not reside in a particular club or social grouping. It exists as a common or imagined consciousness among people. This common sharing of values, ideas and beliefs constitutes a social force not to be ignored, slighted or suppressed by the state. This cultural civil society is formed and manifests itself in the public sphere provided by mass media, especially television. In the following pages, I will discuss the formation of this culturally based civil society in relation to television and the socioeconomic changes since the 1970s.

The development of television

The emergence of television as a popular mass medium in Hong Kong had a tremendous impact that included the cultivation of a distinctive cultural identity among Hong Kong people who were British colonial subjects.

Private initiatives were the moving force behind the growth of free-to-air television in Hong Kong. Right from the beginning, television was to be provided on a commercial basis and government initiative was minimal. When the Television Bill was written in 1964, the Colonial Secretary made it clear that the bill owed something to similar legislation in Australia. A major feature of the Bill was to prevent foreign control of television services and to limit cross-media ownership. It stipulated that not less than 60 per cent of the voting shares of the franchised company should be owned by British subjects ordinarily resident in Hong Kong, and that voting shares owned by any non-British person or organisation be restricted to 15 per cent or less of the total. In addition, no competitor, supplier of broadcasting material or advertising agent was permitted a controlling interest in such a company (*Hong Kong Hansard* 1965).

However, the underlying principles and means for carrying out these provisions in the context of Hong Kong did not work out satisfactorily. In

the second reading of the Bill several months later in 1964, the clause restricting foreign control was struck out because ‘there might be such a risk if unduly onerous restrictions on shareholding and share transfers made investment in the undertaking unattractive ... the public would not receive the standard of television which the Bill seeks to provide’ (*Hong Kong Hansard* 1965: 372). The cancellation of the clause of foreign control showed that the government was prepared to trade its control for foreign investment. The colonial government was eager to have television services, but was concerned about outside influences on broadcasting. What it had relaxed related only to control by subjects of Britain’s geopolitical allies. However, it would see to it that the control would not fall into the hands of unfriendly ‘outsiders’. Broadcasting services including radio and television would not be permitted to be controlled by Chinese unfaithful to the state.

In 1965 the Television Bill was amended again to make provision for the Governor to allow Rediffusion, the existing cable television service provider, to get the franchise for free-to-air television. It is interesting to note that in the amended bill, the provision against cross-media ownership was not struck out; instead, it was made to be ‘effective’ only after the grant of the licence for free-to-air TV. This amendment was claimed to give the Governor ‘complete freedom to select the best and most suitable applicant’ (*Hong Kong Hansard* 1966: 401 – 3).

From these initial events, we can see that the state did not intend to place too many restrictions on the medium. The state was more concerned with the provision of service than control of the medium. Commercial imperatives prevailed over political considerations in the introduction of free-to-air television into Hong Kong in the early years.

Principles of regulating television

Over the years, Hong Kong has developed an elaborate system of regulations concerning television. Apart from the Television Ordinance (Cap. 52), there are the Telecommunication Ordinance (Cap. 106), the Broadcasting Authority Ordinance (Cap. 391), and Codes of Practice regulating television programmes and advertising. All these laws govern the operation of television in Hong Kong. In addition, many other laws are also relevant, such as the Smoking (Public Health) Ordinance (Cap. 371), the Undesirable Medical Advertisements Ordinance (Cap. 231), the Film Censorship Ordinance (Cap. 392), the Pharmacy and Poisons Ordinance (Cap. 138) and the Gambling Ordinance (Cap. 148).

Taking a broad view, we can say that Hong Kong television has been regulated along five principles. They are:

- Television services must be local and independent;
- Television services should maintain the status quo;
- Television news should be fair and provide proper guidance;

- Children should be protected;
- Public health should be protected.

These five principles have laid down the ground rules for television to operate. Basically, the television services in Hong Kong, as designed by the regulators, are expected to behave properly. Metaphorically, television in Hong Kong is to be a family friend possessing mainstream values, loyal to family, caring for children, concerned for public good, mild and moderate in temperament, neutral and somewhat disgusted at politics!

Under these regulations, one would not expect this family friend to be an advocate for change, to show passion for new ideas and values, to fight for the downtrodden and underprivileged, or to embrace political debates and examine deep-rooted social issues. This family friend is satisfied with leading a decent life, in following the mainstream, staying close to social peers, earning enough money to raise the family and staying away from empty idealistic talk.

Given these expectations, Hong Kong television concentrates on entertainment, with a minimal supply of news services and current affairs programmes. As a matter of fact, both free-to-air television stations, the Television Broadcast Ltd (TVB) and Asia Television Ltd (ATV), were required by their licence conditions to broadcast a minimum of two comprehensive news bulletins, each of not less than fifteen minutes duration, each evening between 6 p.m. and 12 midnight. They are also required to broadcast a minimum of sixty minutes of documentary programmes and two half-hour current affairs programmes each week between 6 p.m. and 12 midnight, of which not less than thirty minutes are to be wholly of Hong Kong origin (*Renewed Licence to Broadcast for TVB Amended Licence*, 5 December 2000, Sections 14, 15, 16; *Renewed Licence to Broadcast for ATV*, 1999, Sections 14, 15, 16). Seldom do both stations produce news, current affairs and documentary programmes beyond the required minimum between 6 p.m. and 12 midnight. The overwhelming majority of programmes shown in this period are serial dramas and entertainment fanfares.

In the year 2001, for instance, most of the prime time programmes on both TVB and ATV were serial dramas. There were often three different dramas throughout the night starting from 7 p.m. to 11 p.m. In between, there might be a thirty-minute infotainment programme or public television programme produced by Radio Television Hong Kong (RTHK). Carriage of RTHK's programmes is required by the government. The Chinese channels of TVB and ATV broadcast their last news bulletins at 11:45 p.m. and 11 p.m. respectively.

With this non-informational nature, one cannot expect television in Hong Kong to play the role of opinion leader; even less can one expect it to be a fighter for social causes. It is out of the question that it will stand up against the state. Paradoxically, it is exactly this non-controversial character that

makes television an important medium in helping to form a civil society which is independent of the state, yet not opposing it.

Transborder television

In the 1990s, satellite and cable (pay) television were introduced into Hong Kong. It was at a time when television viewing declined steadily. In the early 1980s, a TVB Chinese programme could still get a rating as high as 56 points. In the 1990s, however, if a programme could get more than 32 points, it was already a hit (AGB Research Services 1994). This trend continued at the turn of the new millennium; there was no sign of recovery for television viewing. In July 2001, for example, a TVB cop drama *Armed Reaction III* got 32 points. It was hailed as a great success.

Since satellite television from outside mostly aims at the China market, rather than Hong Kong, none of the satellite television services uses Cantonese in their programming. They use either Mandarin or English. Therefore, Hong Kong people seldom watch satellite television. The Hong Kong Cable Television (HKCTV) launched its service in 1993 with an exclusive right until 2000 when three licences were issued to Yes Television (Hong Kong) Limited, Pacific Digital Media (HK) Corporation Limited and Galaxy Satellite Broadcasting Limited. Without competition for a long while, the HKCTV cared less about producing more local programmes and their quality. Its penetration has been slow; after seven years the rate was still around 30 per cent.

The government has introduced different programme and advertising codes for pay and satellite television. Since pay television is a multi-channel service targeting different audience groups, the regulations are somewhat different from the terrestrial advertising-driven television. For example, pay television is not required to have Family Viewing Hours. Yet in programmes targeting children, similar provisions for terrestrial commercial television are set for pay television. Also guidelines concerning the portrayal of sex, nudity and violence in general programming are same as those for advertising-driven television. There is a special Adult Channel on pay television. This channel is allowed to show movies classified as Category III by the Film Censorship Authority. Nevertheless, violence, nudity and occasional use of offensive language still have to be justified in context (*Subscription Television Code for Practice on Programme Standards*, 31 August 1999, Part B).

The advertising standard for pay television is basically the same as that for advertising-driven television. However, it has provisions for home-shopping channels. These provisions deal mainly with honest and fair trading. Samples of goods promoted must be made available at a known address for public inspection, the product must have a delivery time of no more than thirty days, and there must be sufficient stock on hand (*Subscription Television Code of Practice on Advertising Standards*, 31 August 1999, Part B).

For satellite television targeting Hong Kong, the programme and advertising codes are the same as those for terrestrial television, including Family Viewing Hours and programme classification. For satellite television targeting audiences outside Hong Kong, the programme and advertising codes are simpler and more general, covering briefly the area of decency, hatred, sex, nudity, violence, crimes, protection of children, news programmes and advertising.

The impact of both cable and satellite television is yet to be felt in Hong Kong. Although cable television has been providing thirty-one channels with diverse programmes, most of the programmes are foreign-produced with little local appeal. Many subscribers use the cable service for news, sports, movies and children's programmes only. With more competition in sight, the appeal of cable television may be better.

The government does not treat cable and satellite television much differently from terrestrial advertising-driven television. These two new forms of television play a role similar to the terrestrial television. However, due to their limited appeal to Hong Kong people, they are not on an equal footing to terrestrial advertising-driven television. Moreover, in recent years, both TVB and ATV have steadily lost their appeal, probably because of a lack of new ideas and excitement. The competition from other leisure activities such as karaoke, computer games, VCD and ICQ has also contributed to the decline in the appeal of television.

In July 2000, the Hong Kong government consolidated various regulations into a Broadcasting Ordinance (Cap. 562) which seeks to further advance broadcasting policy objectives of:

- widening programming choice to cater for the diversified tastes and interests of the community;
- encouraging investment, innovation and technology transfer in the broadcasting industry;
- ensuring fair and effective competition in the provision of broadcasting services;
- ensuring that broadcasting services provided are up to expectations and do not offend public tastes and decency; and
- promoting Hong Kong as a regional broadcasting and communications hub.

The major substance of this bill is to impose limits on cross-media ownership. The intent is to ensure diversity in programming and free competition. The market of seven million people, however, does not seem to be able to sustain a high degree of competition among different television services. Moreover, the dominance of TVB in the market has become a deterrent for new entrants. The prospect of increasing programme quality and viewership through competition is not good since the profit margin for a successful new entrant tends to be small given the dominance of TVB in the market.

The formation of the Hongkonger's identity

Before the 1970s, the Hong Kong people's identity was mainly 'Chinese'. Politically they were 'rightist', 'leftist', 'neutral' or 'apolitical'. The mainstream newspapers in the 1970s – namely, the *Wah Kiu Yat Po*, *Keung Sheung Daily News* and *Sing Tao Jih Pao* – were largely pro-Taiwan, but relatively apolitical in news coverage and editorials. Perhaps the identity of the Hong Kong people is manifested by these newspapers' popularity. One illustration of Hong Kong people's sense of Chinese identity was the press response to student protests in 1971 against the American handover of the Tiao Yu Tai Islands to Japan.

Tiao Yu Tai is a group of small islands long recorded as part of the Chinese territories in Chinese historical accounts. These islands became a US protectorate after the Second World War during which Japan occupied the islands. In 1970, the US announced that the islands would be 'given back' to Japan. This incident stirred up protests and opposition among overseas Chinese. Objections were also raised by the Chinese Nationalist government in Taiwan, and the communist government in mainland China. Mass demonstrations against Japan were launched by students in Hong Kong for the first time since the Second World War. The protests quickly enlisted the support of workers and people from other walks of life. The British colonial government acted promptly and banned the demonstrations. In confrontations with the police many students were injured and arrested.

The press almost unanimously denounced the government's brutal actions against the students. In the Tiao Yu Tai protests the hidden nationalist sentiment of the Hong Kong Chinese surfaced for the first time since the Second World War. Although the sentiment died down soon after, and the Chinese governments on both sides of the Strait were not enthusiastic about the issue, Hong Kong people's reactions to the Tiao Yu Tai incident demonstrated that many Hong Kong Chinese identified themselves as Chinese up to the early 1970s.

Many explanations have been given to the emergence of a Hongkonger identity among people in Hong Kong. Lau (2000) listed seven factors for its formation. Lee (2000) named six historical events which paved the way for the genesis of a Hongkonger identity among Hong Kong people. Whatever factors and historical events are taken into account, however, Hong Kong's cultural, political and economic separation from mainland China is definitely a major factor. While Lau (2000) considered the emergence of a distinctive popular culture among Hong Kong people as an important factor for the Hongkonger identity, Lee (2000) treats this distinctive popular culture as a manifestation of the Hongkongers' identity. Lee suggests that television serves as an anchor to landmark and stabilise the Hong Kong people's cultural characteristics.

The role of television in the formation of civil society

Hong Kong's television regulations open up as well as limit the space for the emergence of a civil society different from the preceding ones – autonomous and self-conscious – as compared with the state-led or oppositional societies. Television is free to produce entertainment, but restricted in covering political and socioeconomic issues. Interestingly, the apolitical and non-controversial character of television helps to bring people of different backgrounds together to interact and mingle. Political allegiances which divided the society were put aside in the public space provided by television.

Television news and current affairs programmes do not advocate any changes in values or subvert any established institutions, but they focus people's attention on local events and problems. By being non-controversial, television performs a widely accepted agenda-setting function for people. Television news and current affairs programmes 'do not tell people what to think, but tell people what to think *about*' (Cohen 1963: 13). Moreover, news and current affairs programmes have a strong local emphasis. For the first time, Hong Kong people *saw* for themselves what happened in their society every day.

Due to the high rating of television news, which was consistently on the top ten list in the 1970s, a huge number of people shared the same symbolic reality in front of television every evening. The fragmenting social realities shown in newspapers of different political allegiances are 'unified' in television news programmes. In the 1970s, some top-rated programmes, overwhelmingly TVB's, scored a rating of 65 points and some episodes reached as high as 80 points. Ma observes that

the literal, much-ignored notion of 'Hong Kong society' was knitted into visual news narratives. The abstract 'city of Hong Kong' was able, at least as represented in the news programmes, to incarnate itself into concrete, integrative, and localised social events.

(Ma 1999: 34)

Apart from news and current affairs programmes produced by commercial television, the public affairs programmes produced by the public broadcaster, RTHK, also had tremendous impact in the 1970s. Some are particularly worth mentioning. The *Needle Point* series in 1973, for example, was the first programme in Hong Kong's television history to discuss public affairs. Although the tone was mild judging by today's standards, the programme aroused great interest among the public, especially the educated class. In the context of a relatively repressive colonial society, the programme was mind-opening. The structure of the show meant that the studio audience could express their views as well as the invited guests. It showed to the public that they could talk about government policies although their talk had to be 'rational' and 'balanced'. The programme set an example of what government policies people could discuss. Although this

programme was 'managed' by the state (the RTHK is still a government department at the time of writing, although it has been playing a public broadcaster's role more), people at least got the signal that they could *talk* about public affairs and should *pay attention* to local issues.

Another important RTHK programme in the 1970s was *Below the Lion Rock*. It was a single-episode drama series in the setting of an old public housing estate. The overwhelming majority of Hong Kong people then lived in public housing estates. The plots developed around bread-and-butter issues or topics of the times among family members. The characters were familiar people in one's neighbourhood. The experiences, values and aspirations resonated with those of the working class in the 1970s.

The more important influences in the formation of the Hong Kong people's own identity and cultural civil society came from TVB's entertainment programmes. TVB's Chinese channel has dominated the television industry for more than three decades. Even now, it still commands more than 70 per cent of the prime-time audience. In the 1970s it consistently had a share of more than 80 per cent. Most of the people watched TVB, hence its influence was greater than ATV or RTHK. As mentioned earlier, the serial dramas on TVB in the 1970s rated as high as 80 points. That meant that a huge number of people watched them every night. In 1976, while the serial drama *Hotel* was on, many people rushed home after work in order not to miss the programme. In some highlight episodes and the ending, the streets were nearly empty because people were watching television at home.

Nevertheless, a content analysis of these serial dramas showed no values significantly different from prevailing social values. The narratives were typical stories about personal struggles to succeed, strife among different clans in the business world, interpersonal conflicts in love, fame, wealth, and the like (Lee 2000). The influence these dramas had lay in providing common topics for people to discuss and share in their daily lives. The programme itself can be understood as a social event. When people paid attention to it, they shared a common experience. Meanwhile, the common experiences of Hong Kong people were articulated and manifested in the news programmes, sit-coms, variety shows and dramas. Their experiences were uniquely different from those in Taiwan, China and the West. Chinese identity receded and a Hongkonger identity emerged.

The popularity of television also contributed to the emergence of a new vernacular local culture. From the 1960s to the early 1970s, the pop charts were dominated by Western pop or Mandarin pop. The cinemas were filled with Anglo-American and Mandarin chivalry genre movies. The local vernacular Cantonese movies literally died. In the 1950s and 1960s, Cantonese movies dominated the cinema and more than a hundred were produced each year. Due to repetitive themes, outdated techniques and poor production qualities, the genre started to decline after the mid-1960s. The emergence of television dealt the final blow to the old Cantonese movies. In 1971, only one Cantonese movie was produced, and in 1972 there was no

production at all. Meanwhile, Hong Kong television started to develop its own genres of sword-fighting, kung-fu and chivalry serial dramas.

Television, being a new popular medium, absorbed a large group of workers and actors from the declining Cantonese movie industry and attracted a large pool of talent from the educated class. In the 1970s when only 2 per cent of students of relevant age could enter universities, university graduates had great opportunities in government or the business sector. Yet many of them joined the relatively low-paid television industry. Some were even willing to do the job of weather women. These talents later helped to transform local pop culture completely.

In the 1970s, the popularity of television created many intimate and popular artists who turned to the movie industry later. Cantonese movies came back with new artists, directors, techniques and genres in the late 1970s, although many of them were imitations of successful television series. In the 1980s, however, Cantonese movies regained their own character. 'Kung fu' and 'kung fu comedy' were two distinctive genres of Cantonese movies in the 1980s and 1990s.

Television also contributed to the emergence of a new type of Canto-pop. At the beginning, it was the theme songs of television series which kept Canto-pop alive. Later, a local pop singer and television artist, Michael Hui, experimented with combining rock beats of the West with vernacular lyrics. The lyrics and language were close to people's daily life. Hui's new style was an instant hit in the market and set a new trend of pop songs. Many pop groups and artists turned from Western pop to Canto-pop. In the 1980s, many prominent pop singers emerged, making pop concerts a common social event for Hong Kong people. Thus, in the early 1980s, Hong Kong people started to have their own television genres, movie stars, pop singers and pop songs. These cultural products were also well received in Taiwan, China, South East Asia and in other overseas Chinese communities. Hong Kong people are proud of having their *own* culture and identity.

In acquiring a Hongkonger identity, people in Hong Kong know that they are one people in the same boat. They are different from their compatriots in Taiwan and China – they pride themselves on their economic and cultural achievements. Meanwhile, they are aware of their independence from expatriates and colonial rulers. Their world was separated from that of the expatriates. This is reflected by the persistently low rating of English channels on both the TVB and ATV. Chinese constitute over 98 per cent of the Hong Kong population. If they seldom or never watched the English channels, the ratings could never be high. A study in 1994 showed that only 1–2 per cent of Hong Kong people regularly watched the English language channels on TVB and ATV. Quite clearly, Hong Kong audiences watch and enjoy their own Cantonese programmes more than the English language programmes.

The formation in the 1970s of a civil society distinctively different from before can be seen most obviously in two areas: conflicts with the state and

the demand for democracy. Although the culturally based civil society is not confrontational in nature, it presses for an equal, if not superior, status vis-à-vis the state.

A study showed that during the period 1975–86, the number of social conflicts, mostly directed against the state, increased year by year. The number of social conflicts in 1975 was thirty-five while in 1986 it increased to 136 (Cheung and Louie 2000: 70). The sectors which recorded a steady increase in social conflict included housing, transport, public utilities and politics. All these sectors were closely related to the government. Most people in Hong Kong lived in public housing estates and the supply of land for private housing was controlled by the government. Public transport and utilities companies were mostly monopolies which were regulated by the government. Political reforms were not introduced until the early 1980s when the British started to negotiate with China for the maintenance of Hong Kong's status quo beyond 1997 when the lease of the New Territories for ninety-nine years from China would expire. Various forms of conflicts in these sectors, including petitions to government, protests, mass rallies, signature campaigns and press conferences were indications of pressures put on the state by society.

Another manifestation of the power of Hong Kong's *culturally-based* civil society is the agitation for democracy since the mid-1980s. Although the initiative for democratic reforms in Hong Kong came from the British, the driving force came from civil society. The demand for popular elections from the public was so great that the British were caught unprepared. China was even more startled to see the strong demand for democratisation in Hong Kong. It protested to the British who ironically needed to join hands with Beijing to suppress the Hongkongers' demand for democracy. In late 1987 the colonial government hired a consultancy company to help manipulate a survey to obtain a 'public opinion' that most Hong Kong people did not favour direct election to the legislature. The result contrasted starkly against most of the polls conducted by non-governmental bodies.

The unbridled challenge cultural civil society presented to the state had been initiated a year earlier in the signature campaign against the construction of a nuclear plant in Daya Bay in China. The plant is very close to Hong Kong. A major investor was a Hong Kong Company, the China Light and Power Co., and the government was one of the guarantors for that project. The Chernobyl accident occurred in April 1986; in July, more than a million of the 5 million Hong Kong people signed a petition against the Daya Bay plant. Although this pressure did not force the government and the Hong Kong Company to drop the project, various study tours abroad and visits to the site of Daya Bay were organised by them. Nuclear experts were hired to assess the risks, and guarantees for safety were repeatedly given.

After the signing of the Sino-British Agreement in 1984 for the reversion

of Hong Kong to China on 1 July 1997, the Hong Kong people basically distrusted both the British and Chinese governments. Many social conflicts developed thereafter, including the massive demonstration against the Chinese communists in the 4 June Massacre in 1989. This demonstrated that Hong Kong civil society is autonomous of the state and powerful enough to exert pressure and influence on the state.

The formation of this cultural civil society is dependent on the crystallisation of a common identity among people vis-à-vis the state. In the context of Hong Kong, the Hongkonger identity provides a cornerstone for civil society to develop in contradistinction to the British colonial state before 1997 and the Chinese authoritarian state after the handover. The demand for democracy in Hong Kong is a representation of the wish of Hong Kong people to get away from the authoritarian state, both British and Chinese.

Should there be an erosion of the Hongkonger identity and a return to the Chinese one following the handover, the role of civil society as a buffer against the state will be weakened. The demand for democracy will also retreat. If Hong Kong people do not consider themselves to be different from their compatriots on the mainland, they will finally accept the practices of their fellowmen. Based on this analysis, I would propose that, to the extent that there is a Hongkonger identity, the demand of democracy which serves as a guard against the Chinese authoritarian state will be kept alive. On the other hand, if the Hongkonger identity diminishes, the drive for democracy in Hong Kong will be weakened. Without a Hongkonger cultural civil society, the resistance to the Chinese state's encroachment, either active or passive, will be nullified.

Conclusion

With a decline in viewing, television today can no longer play a significant role in articulating and cultivating people's identity as in the 1970s and 1980s. The *culturally-based* civil society, however, already has a life of its own. Since the late 1980s, a cultural civil society has articulated itself through its responses to various social issues, such as the Daya Bay Incident in 1986, Basic Law consultation and agitation for direct election in 1987–8, protests against the Tiananmen Massacre in 1989, Sino-British rows in the handover years including the construction of the Tsing Ma Bridge, new airport, corporatisation of Radio Television Hong Kong, introduction of the Bill of Rights, direct election initiated by governor Christopher Patten, and the formation of China's own shadow legislature.

After 1997, Hong Kong's cultural civil society exists autonomously and consciously alongside the proxy government formed by Beijing in the Hong Kong Special Administrative Region (HKSAR). Although the civil society does not challenge the Chinese authoritarian state, it passively resists its encroachment. Whenever Chinese officials attempt to intervene in Hong

Kong's internal affairs, such as the National Peoples Congress's reinterpretation of the Hong Kong Final Court of Appeal's decision on the Right of Abode Issue for Hongkongers' mainland children, or the 'pledge' made to the Hong Kong press not to report views advocating Taiwan independence, uproars from various sectors will be heard.

In addition, Hong Kong press opinions were particularly harsh on Beijing's proxy government in Hong Kong in the few years after the handover. It certainly had to do with the coincidence of the Asian financial crisis which resulted in Hong Kong's economic downturn in late 1997. The ineptitude of the new HKSAR government under the rein of the Beijing-appointed Chief Executive, Tung Chee-wah, also had a share of the blame.

In fact, after the mid-1980s, television no longer needed to play a role in fostering or strengthening Hongkonger identity. Once the identity and the civil society are formed, the catalyst is not that important any more. Hongkongers and their civil society act independently of the state. They act upon, as well as react to, social events. The formation of such a cultural civil society was certainly beyond the calculation of the British regulators when they laid down the rules for commercial wireless television in the early 1960s.

The regulations, on the one hand, opened up the space for public discussion on social and civic issues, but limited the discussion on politics and class conflicts on the other. Paradoxically, people came together to know each other exactly because of the *apolitical* nature of this public space. Hong Kong was an atomised society, politically and socially divided before the 1970s. Television was a low regulated space where people interact, share and get acquainted with each other. In the 1970s and 1980s, television contributed greatly to the formation of a Hongkonger identity. With this common identity, a cultural civil society and collective actions taken by people later in the political transition were made possible. Since the 1990s, however, television has lost its force as an integrating institution. Its historical mission in Hong Kong may have been fulfilled. The impact of cable and satellite television in the new era of globalisation is yet to be felt. Civil society in Hong Kong, nonetheless, will carry on if its Hongkonger identity can stand the advance of the Chinese identity.

Social discussion on the idea of civil society in Hong Kong is scanty. Not many people, including academics, talk about this conception (Scott 1989; Sing 1996; Ip 1997; Thomas 1999). The reason is probably that civil society is not an issue in Hong Kong because under British rule the state had been small even though repressive. The colonial government was aloof and indifferent to people's demands, and people were not bothered because they were busy making a living. Before the 1960s, Hong Kong people were politically apathetic.

After the two riots in the 1960s, the government started to pay attention to social demands, such as housing, transport and education. Meanwhile, the philosophy of 'positive non-interventionism' was followed by and large until the reversion of Hong Kong to China in 1997. The rule of law and the

existence of a cultural civil society in the 1970s are also reasons for the meagre attention given to the issue of civil society. Although people did not have democracy under British rule, they enjoyed a considerable degree of individual liberty, freedom of speech and freedom of the press. Still another reason is that civil society issues were transformed into the demand for democracy. Democratisation is an issue given much attention by the public as well as academics.

From the development experience of Hong Kong, we can see that state-led or oppositional social groups are only partial manifestations of the process of the making of civil society. A cultural civil society articulating a distinctive identity of the people vis-à-vis the state is more essential in maintaining an autonomous yet non-confrontational social entity outside of the state. A cultural civil society helps to strengthen people's awareness of their autonomy from the state. With a common identity and consciousness, individuals will collectively resist state encroachments and apply pressure on the state. This cultural civil society is also a base for the formation of various forms of social organisation with varying interests. In the 1970s and 1980s, pressure group politics was widespread and common. It was replaced by party politics only after the 1980s.

In a nutshell, in the case of Hong Kong, television as a non-controversial public space contributed to the formation of a culturally based civil society in the 1970s. With a *cultural* civil society in place, the more important issue in Hong Kong is how the cultural civil society exerts and maintains its influences on the state through its demands for further democratisation. As long as Hongkongers maintain a distinctive identity and the Chinese state remains authoritarian, the demands will go on.

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9 Sliding back the screens

Civil society and the erosion of bureaucratic control of television in Japan

Chalinee Hirano

Japan in the 1990s differs vastly from what it had been two or three decades earlier. The Japanese state has undergone such a fundamental change that it has been described as a 'regime shift' (Pempel 1998). Although the long-term ruling conservative Liberal Democratic Party (LDP) has returned to power after its defeat in 1993, it no longer has an absolute majority in the Cabinet. Surrounded by numerous scandals and corruption charges, both the government and bureaucracy have undergone major reforms to increase transparency and reduce bureaucratic influence over the policy-making process. The Japanese Diet has, for example, passed the Information Disclosure Law to increase openness in the administration. Economic policies have also been transformed to cope with the malaise characterised by continuing problems of bad loans in the financial sector, rising unemployment and declining manufacturing productivity.

Amidst these changes, there has been a claim of a real emergence of civil society in Japan, exemplified by an unprecedented number of citizen's movements at the local level in opposition to the state's policies and projects that lacked consultation with communities (Jain 2000). These movements stemmed from the growing dissatisfaction of the people with the pork-barrel style of politics, their lack of trust in the policy-making process and their willingness to engage in a more participatory politics. More networks of citizen groups have been established since the Special Nonprofit Organisation Law was passed in 1998. This law, for the first time, certifies the legal status of non-profit organisations in Japan. The enactment of this law was largely influenced by public dissent against the state's perceived poor performance in delivering relief to victims of the Great Hanshin Earthquake in 1995, who instead had received assistance mostly from volunteer groups (Pekkanen 2000; Bouissou 2000).

The role of television in consolidating the emergence of civil society in Japan has been indispensable. Coverage of local citizen groups, their movements, and criticisms against the government's mismanagement, excessive spending on public mega-projects and corruption scandals were constantly featured on commercial networks. Popular news and current affairs programmes such as *News Station*, *News 23*, *Asa made nama terebi* and

Sunday Project, which emerged in the 1980s and early 1990s, have engaged in the debates of civil society. They have helped establish a public sphere in which the Japanese public and the state can engage in a dialogue based on information sharing and fruitful debates. Despite several attempts to limit their influence and scope, these news and current affairs programmes have arguably increased public cynicism and demands for state reform. The public broadcasting network, the Japan Broadcasting Corporation or *Nippon Hôshô Kyôkai* (NHK), on the other hand, has been seen as an arm of the state as its role has been a legitimising tool, stabilising conflicts and public antagonism against the state (Krauss 2000).

Television provides a space for public interaction necessary for the formation of public spheres, which can develop in various realms of civil society. As Keane (1998) emphasises, media should constitute a means of expression for the full range of political interests and viewpoints, and a forum for public debate. This is similar to Habermas's notion of the media as a 'public sphere'. Kumar (1993) further suggests that the establishment of a public sphere of political debate and activity is the primary condition for the existence of civil society. Within this context, television regulation is expected to provide freedom for broadcasters to use television as a forum for rational debate involving people from many walks of life. However, television regulation actually acts as an instrument of coercion imposed by the state to limit the scope of the public sphere. In this chapter, I examine the extent to which television regulation in Japan and related extra-legal measures have shaped the function of television as a 'public sphere'. I view television regulation as the product of history, always influenced by changes in the political, social, and media market environments. In the case of Japan, the existing Broadcast Law of 1950 has been revised many times to be compatible with political demands, as well as with rapid changes in the media and technological environments. I argue that the fifty-year-old Broadcast Law has reached a critical turning point marked by the function of television as an established medium bridging state and society and contributing to the development of civil society, and by the growth of the media market and technological change. I also argue that the Broadcast Law should be revised in a way that it will provide a secure legal framework supporting the independent political space of civil society in Japan.

State-civil society relations and television regulation in Japan

Despite being the first democratised nation in the non-Western world, Japan has long been characterised as having had a weak 'civil society' as opposed to a 'strong state', until recently. When the modernised state was formed in the Meiji period (1868–1912), the Meiji leaders embraced the slogan '*fukoku kyôhei*' (enrich the country and strengthen its arms) as a guideline for achieving a strong centralised state by means of rapid industrial growth and strong military force (Iokibe 1999: 61). The notion of 'strong state' that was

strongly upheld by the state and its bureaucrats eventually led the country into militarism and ultra-nationalism at the beginning of the Second World War. Although the American Occupation eradicated all military aspects in Japan at the end of the war, the idea of state-led modernisation by way of industrial growth prevailed. The task of restructuring the war-devastated nation was thus carried out by wartime bureaucrats, who, unlike the politicians who had been purged or jailed immediately after the war, were left virtually untouched. The recognition of Japan as a 'strong state' was reaffirmed by the leading roles of these bureaucrats in policy making and the provision of administrative guidance to private corporations from the 1950s to 1970s, which brought about rapid industrialisation and economic growth. However, this recognition of the 'strong state' started to decline in the 1980s, and more substantially in the 1990s, when most bureaucrats who had previously been regarded as the agents of change, came to be seen as a major hindrance to reform. As a result, the centre of gravity of Japanese politics moved out from the bureaucracy into the LDP and other interest groups (McKean 1993).

On the other hand, the concept of 'civil society', or *shimin shakai*, was imported from the West by Japanese Marxists prior to the Second World War (Carver *et al.* 2000). These pre-war Marxists promoted the concept of 'civil society' in order to form a popular front against Japanese militarism. However, the notion of civil society as advocated by these pre-war Marxists did not involve the formation of networks and the participation of ordinary citizens in issues concerning the public interest. Rather, the term had an economic basis and was equated with 'bourgeois society' (*burujowa shakai*), in which 'individuals pursue their private interests in an alienating and competitive manner in the capitalist system' (Carver *et al.* 2000: 547).

However, it was not until the period of the 1950s and 1960s – from the end of the US occupation to the stabilisation of Japanese politics under the LDP – that the notion of 'civil society' (*shimin shakai*), which emphasises decentralisation and non-state forms of organisation, became more pronounced in the work of political scientists and public intellectuals. Specifically, the idea encouraged a popular movement against the revision of the Japan–US Security Treaty in 1960 (Iokibe 1999: 84). Towards the end of the 1960s, movements of local residents erupted in many parts of Japan involving environment, welfare, and other social issues that had been neglected by the government in its pursuit of economic growth. However, the movements in the 1960s were not directly aimed at forcing political liberalisation, or demanding more citizen involvement in the policy-making process. Rather, they simply took anti-government or anti-corporation positions and subsided when the locals received substantial compensation. Moreover, these popular movements waned in their political influence in the early 1970s due to rapid economic growth and a relatively equal distribution of income. Interest in the concept of 'civil society' re-emerged in the 1980s, when Japanese corporations began to take interest and participated in local

communities and non-profit activities overseas, with official support from domestic governmental agencies (Iokibe 1999: 86). News coverage of these corporate activities drew more media attention to the concept of civil society and raised public consciousness about the potential contribution of non-profit organisations to society. Yet, discussions of the concept of 'civil society' in Japan have noticeably tended to focus narrowly on the theme of independence of non-profit organisations and citizen-initiated groups. This Japanese-truncated version of 'civil society' became widely publicised and recognised in the 1990s, particularly among political parties and supporters of non-profit organisations. Meanwhile, the notion of the 'strong centralised state' was seriously undermined by bureaucrats' repeated scandals, their ineffective policies, increased political pluralism and the government's move towards administrative reform (Yamamoto 1999). In the following discussion, I will examine the extent to which the evolution of these paradoxical concepts of 'strong state' and 'civil society' in Japan have affected the creation of 'public sphere' and the regulation of television.

In the pre-war years, the Meiji Constitution guaranteed freedom of expression. However, this freedom was restrained by a clause 'within the limitations of laws'. This reinforced the idea of the strong state as the authorities were given arbitrary powers over media freedom. The first broadcasting legislation, the 1915 Wireless Telegraphy law, gave the Ministry of Communications (since January 2001 the Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT)) complete authority in governing and administering radio frequencies and programmes. Under this law, NHK (*Nippon Hōsō Kyōkai* or the Japan Broadcasting Corporation) was established as a government propaganda tool. Representatives from the Army, the Navy, and the Ministry of Foreign Affairs were members of NHK's Program Council where they were responsible for the planning and control of programmes. According to Article 2 of the Wireless Telegraphy law, NHK's main task was to 'execute business for the government as an outpost agency of the Ministry of Communications' (Omori 1989: 13). This law, however, was repealed after the war by the US Occupation Force, which did not see NHK as a governmental apparatus, but rather as a public broadcasting service. The US authorities felt that NHK should have its own autonomy and be separated from the government. Shortly after the war, a special order was issued requiring that NHK would be directed by the Ministry only in areas such as the allocation and assignment of frequencies, and the prescription of procedures for the reporting and auditing of financial statements (Luther and Boyd 1997: 43).

Yet the US authorities protected NHK's monopoly and did not allow the establishment of commercial stations in the early occupation years, due to a concern that the commercialisation of broadcasting 'would curtail US authorities' efforts to supervise operations and censor programming' (Luther and Boyd 1997: 42). The US authorities also ensured that they could exert influence over NHK's operations and programming. Although they estab-

lished an advisory committee of ordinary Japanese citizens whose task was to select the President of NHK, the final selection was in the hands of the US authorities. Their role in shaping Japanese broadcasting became prominent when they rejected a legislative proposal for a broadcast law drafted by the Ministry of Communication, and decided to draft their own set of broadcasting laws and successfully pushed them through the Diet in 1950 (*ibid.*).

The legislative package included the Radio Law which regulates radio frequencies and awards licences; the Broadcast Law which guarantees the use of radio waves for the public benefit and lays down sets of guidelines for NHK as a corporate body in charge of public service broadcasting as well as programming guidelines for commercial broadcasters; and the Radio Regulatory Commission Establishment Law which establishes an independent commission, namely the Spectrum Supervision Commission (*Denpa Kanri Inkai*), similar to the US Federal Communications Commission (FCC), to oversee the allocation of radio frequencies (Omori 1989; Hattori 1989; Tracey 1985). In contrast to the Radio and Broadcast Law which remains in effect today, the Radio Regulatory Commission Establishment Law only lasted for two years. It was abolished two months after the end of the US occupation in April 1952 because the Yoshida government claimed that the Regulatory Commission was beyond the jurisdiction of the Cabinet, and that the Commission should therefore be abolished in order to simplify the administration (Hattori 1989: 47). Beneath these claims, however, was the fact that neither the Prime Minister nor the Minister of MPT could interfere with the Commission's rulings or its administration under the existing structure. The abolition of the Commission reflected the government's successful attempt to keep a channel of influence over commercial broadcasters by assigning the MPT to reassume the role of regulator and allocator of broadcasting frequencies. Since then attempts to remove authority over frequency regulation and allocation from the MPT, such as those in 1953, 1959 and 1965, were met with strong resistance, and failed to succeed. More recently, an administrative reform council established by the Hashimoto government published an interim report in 1997 announcing a plan to establish an independent regulatory council namely the Telecommunication and Broadcasting Council (*Tsūshin Jōhō Inkai*) to regulate and license frequencies. However, the plan folded within three months due to strong bureaucratic resistance (*Medeia Sōgō Kenkyūjo* 1998: 48).

In addition to the Radio Law and Broadcast Law, ministerial notices and ordinances exist to fill in details left uncovered. As in many other policy areas in Japan, radio and broadcasting laws are vaguely written and the relevant bureaucratic agency is left with the task of filling in the details through ministerial notices and ordinances. However, these ministerial notices and ordinances were not only written to complement the inadequacy of the provision in the laws, but were also intended to benefit the MPT and the government of the day. Article 9 of the Ordinance for Essential Standards

for Establishing a Broadcast Station, for example, was aimed at preventing the over-concentration of ownership of the mass media by prohibiting the control of more than 10 per cent of the shares by an individual or entity in the three areas of the media: television, radio and the press (*Nihon Shimbun Kyōkai* 1995: 46). Yet a provision in Article 9 exempted cases within metropolitan areas such as Tokyo on the grounds that ‘such multiple operations would not constitute an information monopoly because of the existence of other influential mass communication media’ (*ibid.*: 53). The interest groups that benefited directly from this provision have been the influential national newspapers, which have financial controls over major television networks and radio stations based in Tokyo.

As listed in Table 9.1, each of Tokyo’s key commercial television stations not only has a strong affiliation with one of the Japan’s five nationwide daily newspapers, but also serves as a hub of a nationwide television network. As such it typically provides news, entertainment programmes, and national advertising for local stations around the country.

This alliance among the big newspaper companies and key commercial stations at the national level also indicates that the Japanese regulator, or MPT, has limited its licence awards to entities that represent a coalition

Table 9.1 National television stations, their financial links with major newspapers and numbers of local affiliated stations

<i>Commercial key stations</i>	<i>Links with major newspapers</i>	<i>National commercial networks</i>	<i>No. of affiliated stations *</i>
NTV (Nippon Television Network)	<i>Yomiuri</i>	NNN	30 (3)
TBS (Tokyo Broadcasting System)	<i>Mainichi</i>	JNN	28 (0)
Fuji TV (Fuji Telecasting)	<i>Sankei</i>	FNN	28 (2)
TV Asahi (Asahi National Broadcasting)	<i>Asahi</i>	ANN	26 (2)
TV Tokyo	<i>Nihon Keisai</i>	TXN	6 (0)

Source: Adapted from *Nippon Hōsō Kyōkai Ron, NHK Nenkan '98* (NHK Radio and Television Yearbook '98) (Tokyo: *Nippon Hōsō Kyōkai Ron*, 1998: 566).

Notes:

^a *As of April 1998.

^b The figures in parentheses represent the number of cross-net stations, i.e. stations with more than one network affiliation. Notably, the number of these cross-net stations has been reduced sharply over the last ten years.

among powerful and well-connected groups. The slow introduction of CATV (cable television) into the Japanese markets also serves to confirm that the powerful existing commercial broadcasters have been well protected by these regulatory measures. Moreover, as stipulated in the Broadcast Law of 1950 (amended in 1988), a broadcast licence is valid for only five years. There is no provision for the renewal of a licence, but rather there is a process whereby the current holder reapplies and is reissued with a licence. Commercial broadcasters must therefore reapply for a new licence every five years. Short-term licensing ensures that key commercial broadcasters are kept in line with the regulators' policies and the government's views in order to get a new licence issued unconditionally, or without a condition demanding changes in programming content.

These characteristics of the Japanese licensing system, however, are not the direct product of regulations or legislation. Rather, they are the product of the collusive relationship between the state and commercial broadcasters which occurs beyond the boundaries of the regulatory system. In awarding a licence, the MPT prefers the traditional practice of *ipponka chōsei* or 'unification adjustment', as opposed to an open-bidding system to select a single winner which will operate a frequency (Hattori 1989; Weinberg 1991). In Japan, a licensee is selected by the MPT in a process which emphasises compromise between all influential applicants. This process involves the creation of a single joint venture, the stocks of which are shared – though not equally – by all of the financially or politically 'powerful' applicants. Most of these 'powerful' applicants include the licensees of local radio stations, local banks, local and national newspapers (Weinberg 1991).

Extra-legal measures

The government's influence over public broadcasting is clearly written into the Broadcast Law, which allows for government appointment and dismissal of the NHK Board of Governors, government approval of NHK's budget, the funding of overseas broadcasting, as well as approvals in areas of research and maintenance. According to Article 11 and 19 of the Broadcast Law, NHK's Board of Governors are appointed and dismissed by the Prime Minister with the approval of the Diet. Past events have shown that the Prime Minister who elected the Board of Governors could also influence the Board of Governors to appoint the President of his choice. When Tanaka Kakuei became Prime Minister in 1973, he had Ono Yoshio, who once served as his Deputy when Tanaka was a Minister of MPT, appointed as NHK President. The appointment of Ono also reflected the tradition of appointing an OB, or 'old boy' of the Ministry of Communications, as NHK President (Kawasaki 1997). This tradition, indeed, proved useful for the Ministry during and after the war, enabling it to have full control over NHK activities and the content of its programmes.

Moreover, the Broadcast Law stipulates that NHK must submit its budget plan, projected programme schedule, and amount of receivers' fees to the MPT every fiscal year. The Ministry's bureaucrats cannot make revisions, but can make certain suggestions and comments before sending the plan to the Diet for debate and approval. As a result, the content of news and current affairs programmes broadcast by NHK has been inextricably bound up with this dependent nature of the organisation itself. There have been cases where previous governments used NHK's submission for financial approval as a loophole to interfere directly with programming content (Kawasaki 1997). The most recent case involved a programme on the Japanese military's sexual enslavement of women during wartime which was to be broadcast on NHK's education channel. The programme was heavily censored before airing due to threats of budget cuts (Takahashi 2001). Due to its susceptibility to this kind of political pressure, self-censorship has gradually developed as an organisational culture within NHK.

The post-war Constitution guaranteed freedom of all forms of expression, thus restricting the enactment of laws that infringe on the freedom of the press (Article 21). Yet, the shortcomings of the current Broadcast Law allow MPT bureaucrats to apply other, extra-legal measures to maintain control over television content. These extra-legal measures largely involve the process of coordination-integration among bureaucrats, politicians and broadcasters. The thrust of coordination-integration in Japanese politics is underpinned by the idea that all relevant parties give up something to achieve mutual goals and that rewards should be collective and reciprocal. This norm of reciprocal consent is a basis of the 'bargained nature' of the Japanese politics in which mutual accommodation is recognised as the most legitimate solution to political conflicts such as in budgetary allocations (Richardson 1997).

In the broadcasting scene, this 'fair share' norm between the broadcasting and political elite has been exercised through informal channels and centres on an equal exchange of awards and incentives. MPT's training of NHK staff and the appointment of members of the broadcasting elite to public advisory bodies (*shingikai*) are cases in point. Since 1987, NHK has begun to dispatch its own talented staff to the MPT for the purpose of training. These so-called '*haken shain*', or 'dispatched employees' are assigned to work full-time at the MPT for a period of two years to gain 'policy' knowledge, whilst receiving a full salary from NHK (Sakamoto 1995). The MPT training scheme was also expanded to cover talented staff of the commercial networks such as NTV and TV Asahi. The cost of paying these dispatched employees to the MPT was borne solely by the television stations (*ibid.*). Yet commercial television executives saw the dispatch of employees to the MPT as a benefit, since their staff received training and the station gained policy knowledge that would benefit them in the future.

On the other hand, the exchange benefits that the MPT bureaucrats received from this training scheme became a platform from which to launch

their own post-retirement future. This practice of employing ex-bureaucrats after retirement is known as *amakudari*, or 'descent from heaven.' The first case of MPT *amakudari* in the broadcasting industry took place in the 1950s (Nakano 1998: 109). Since then, a number of new licences for operating local television and radio stations have been given on the basis of including MPT retirees on their Boards. The practice has been so pervasive that, as Nakano has claimed, it has become 'a condition in exchange for the MPT licence approval' (*ibid.*). This condition has become a major hindrance against the emergence of real competition for licenses, and has opened room for bureaucratic intervention in broadcasting content.

The relationship between MPT bureaucrats and NHK staff was also forged at another level. There has long been a practice of appointing NHK executives and senior editors to a number of public advisory bodies (*shingikai*) which are sub-governmental institutions. NHK staff, as well as academics and community representatives, are officially appointed to give their expert advice on particular policy areas. Within *shingikai*, NHK staff, together with journalists appointed from other media organisations, are appointed to gain access to policy makers and given an opportunity to comment or criticise on policy issues (Harari 1997). This could have given tremendous benefits to the public and increased a sense of public participation in the media if the deliberations of such policies had been made public. Instead, most deliberations of public policies by *shingikai* members were kept secret until very recently (Noble 2000a). The *shingikai* became an informal channel for forging relationships between senior journalists, members of the broadcasting elite and policy makers, and thus made it difficult for the broadcasting elite and senior journalists to be critical of the appointing authorities, or to comment objectively on the policies they deliberated upon. In particular, NHK, which has a large number of their staff on various advisory bodies, has devoted a high proportion of its news time to coverage of these bodies (Krauss 1996). However, the coverage is mainly factual and straightforward, lacking critical editorial assessments or negative comments. The role of these media members seems to be limited only to 'legitimising' policy proposals, which have all been developed, negotiated and agreed to elsewhere.

The reason why NHK executives and personnel decide to become members of *shingikai*, however, is not based on publicity or money. Rather, serving in *shingikai* secures a post-retirement future because it opens doors to attractive retirement positions in semi-governmental organisations, such as research or administration positions in policy-related public companies, research institutes, or think tanks (Harari 1997). This integration between the broadcasting and political elite in Japan has contributed to a susceptibility to special requests to change or suppress politically-sensitive broadcasting content, thus limiting the scope of public debate and inhibiting the expansion of the public sphere.

Re-regulation and changes in news and current affairs programmes in the 1980s

The Broadcast Law of 1950 was radically revised in 1988. The MPT decided that an industrial policy should replace the existing administrative policy so as to be compatible with the changing media market environment, particularly in the areas of new broadcasting technologies such as cable television and satellite broadcasting. This policy, in part, was a result of the Japanese government's propagation of 'informatisation' (*jôhōka*) since the 1960s with the aim of catching up with more industrialised countries (Itô 1995). In the late 1980s, the MPT was attacked for its status quo oriented policies and slowness to keep up with the growth and diversification of broadcasting technologies, particularly in its competition with the Ministry of International Trade and Industry (MITI) (Weinberg 1991). MITI oversaw the rapidly advancing business of computer technology, and had overlapping interests in telecommunications with the MPT. In trying to retain its supervision of the telecommunications business, the MPT submitted to MITI's demands for radical reform. Accordingly, the MPT reorganised its internal structure by re-orienting towards long-term policy formulation, something that had previously been lacking. Realising the weaknesses of its technological position, the MPT concentrated on plans to carry out the liberalisation of cable television and communication satellite broadcasting, as well as digitalisation (Kaifu 2000).

With regard to conventional television broadcasting, however, the revision of the Broadcast Law in 1988 could not be seen as a liberalisation of the television broadcasting market. Rather, it should be viewed as a successful attempt by the ministry to re-regulate its control of broadcasting content. For instance, the revision did not alter the commercial licensing system. Instead, it only expanded the licence term from three to five years. The revision also abolished the practice of industrial self-regulation of broadcasting content, and required that programme consultative committees be established in all commercial broadcasting companies. Each committee consisted of seven members of the public who were required to make public their recommendations or opinions as requested. As for NHK, three similar committees were established to oversee the programme output of its central and regional stations, as well as overseas broadcasting (Omori 1989: 28–).

This ministerial attempt to re-regulate the broadcasting content was perhaps prompted by the fact that throughout the 1980s commercial television increasingly represented a new political space between the public and the state through its development and innovations in news and current affairs programmes. The commercials outrated NHK which had dominated the television marketplace as a news and information provider. The commercial channels which emerged between the 1950s and 1960s had previously focused their resources and funding on producing drama series and entertainment programmes, and relied largely on their affiliated newspapers for news. They reasoned that they would never be able to beat NHK in news

reporting because NHK was often granted exclusive coverage of governmental functions and meetings. Moreover, NHK had more staff and better equipment for these purposes than the other channels (Krauss 2000).

The marketplace for television news in Japan became increasingly competitive owing to the emergence of a prime-time news programme called '*Nyuusu Suteeshon*' (*News Station*) on TV Asahi (Krauss 1998, 2000; Tahara 1995). Launched in October 1985, the programme airs at 10 p.m. and lasts about eighty minutes. The style of this unusually long presentation is a mixture of factual reports, interpretation of news stories by a team of news anchors led by Kume Hiroshi, and comments from experts who are usually from the editorial board of the Asahi Newspaper. Kume Hiroshi's non-conventional and forthright opinions, blunt questions and unhesitating reactions to news stories, quickly gained a wide audience (Sherman 1995). Kume often interviewed politicians live to gauge real reactions to his unscripted questions. Kume offered the audience 'the true meanings' (*honme*) of politics which were hardly discussed explicitly in the mainstream press, or on NHK. Kume's live interviews bypassed the system of reporters' clubs (*kisha kurabu*), which had dominated the news-gathering system and filtered the outflow of political information for more than a century (Freeman 2000). Moreover, most interviews with politicians are usually conducted live in the programme, thus preventing any political interference in the editing process and airing schedule.

The cooperation between TV Asahi and CNN in news coverage and production assistance in the 1987 also gave *News Station* a greater comparative advantage in terms of technology and expertise (Okamura 1997). The success of *News Station* in gaining high ratings prompted other stations to launch anchor-type news programmes during prime time (7–11 p.m.) – a period traditionally reserved for entertainment alone. Programmes that emulated *News Station* included '*News 23*' on TBS, '*Kyô no dekgoto*' (Today's Events) on NTV (1988), '*Dateline*' (1988), '*News Com*' (1993), and '*News Japan*' (1994) on Fuji TV (Okamura 1997). These programmes rapidly fostered a new reporting style known as '*waido nyuusu*' (wide news), which emphasised a variety of long documentary-style news items, anchors' interpretative and personal comments, and public participation through phone-in and fax messages. Greater balance in the coverage of mainstream political parties in these programmes was particularly welcomed by the public audience. Their success also prompted local stations to create news programmes using more local materials than before (Iyota 1996). The success of this style of reporting challenged the domination of the factual and bland news reading style upheld by NHK.

The success of these news programmes in bypassing the system of reporters' clubs and in presenting audiences with the true meanings of politics prompted their networks to produce more live programmes. More current affairs programmes are broadcast live, in which politicians, bureaucrats, businesses and intellectuals, as well as members of the public, are

invited to share a lively debate on current issues. A good example of such programmes is '*Asa Made Nama Terebi*' (Live Broadcast Till Morning), which also airs on TV Asahi but only once a month. The programme started in 1987 and is hosted by Tahara Sôichirô, a veteran film and television station director, with a set of panellists and live audiences. Topics of discussion in the programme are often controversial and are considered 'taboo' subjects. These have included the Imperial System, the Constitution, the Self-Defense Force, North Korea, rice problems, religion, bureaucrats, as well as the LDP (Imamura 1996). The discussions in the programmes are often controversial, as both panellists and audience can speak freely because there is neither a script nor editing. As a result, the programme usually presents intense debates, often in abusive language. The programme was successful even though it airs between 1 a.m. and 6 a.m. on the last Friday of every month (*ibid.*). Although several critics considered the programme 'too radical', the discussion as 'unworthy', and the unrestrained debates as a 'wrestling match' (Kogawa and Lummis 1993; Watanabe 1995), the programme has represented a genuine attempt to engage in public debate, and paved the way for an emergence of Sunday morning current affairs programmes on various commercial channels in the early 1990s.

Yet the popularity of these programmes makes them susceptible more to political threats than legal sanctions stipulated in the regulation. Commercial stations in Japan are subject to parliament in the same way as NHK, because they must undergo review by the Diet in order to obtain re-licensing every five years. Often these periods of scrutiny have profound effects on decision-making over programmes. Stations avoid charges of political favouritism from any side of the political community. Commercial stations, according to a television journalist, produce their news programmes based on four principles: *yasuku* (cheap to make), *hayaku* (quick to make), *takaku* (achieve high ratings) and, most importantly, *mondai-naku* (no problem follows) (Namino 1998). This view has been widely shared particularly after the incident in which a former TV Asahi president was summoned to give evidence before the Diet. After the fall of the LDP in 1993, the former President of TV Asahi, Tsubaki Sadayoshi, gave a speech at the private meeting held by the National Association of Commercial Broadcasters claiming that he had encouraged the news reporting team to work with a view to helping the establishment of a non-LDP coalition government in the 1993 election. After the speech had been leaked to the press, Tsubaki was pressured to resign. Yet he and the replacement President, Itô Kunio, were both summoned to give their testimony to the Diet only a week before TV Asahi's licence expired (McCargo 1996; Altman 1996; Yokota 1996).

In this case, TV Asahi was highly vulnerable to political pressure. The station had to comply with the Diet's demand for an external expert to

conduct an investigation into the charge of biased election coverage in addition to its own investigation (Yokota 1996: 124). This case is recognised as a precedent where the government's intervention and control of commercial broadcasting content as allowed by the Broadcast Law has been questioned, debated and redefined (Watanabe 1995). The Chief of the Broadcasting Bureau of the MPT, in particular, announced at the Communication Policy Council meeting that 'the final decision about whether the programme is fair or not, is made by the MPT' (Tsukamoto 1999: 56). He based his argument on the grounds that since the MPT has jurisdiction over the Broadcast Law and the Radio Regulatory Law, the MPT can also determine what is broadcast. In 1995, the MPT also added to the Broadcast Law a requirement that made broadcasters keep copies of broadcast programmes, and extended the period that they could be requested to change or make corrections to what had been broadcast. In 1996, the TBS disclosure that it had allowed members of the *Aum Shinrikyô* group to preview an item of news documentary caused an MPT uproar. This had led to the disappearances and deaths of family members of a lawyer who made a case against the group and gave an interview on the programme. The incident caused the TBS President to resign and set off another controversy over the MPT's reinterpretation of the Broadcast Law (Tajima 1996).

In 1999, the current President of TV Asahi was again called by the MPT to attend a Diet session to explain the circumstances involving *News Station* making a false report about dioxin levels in Tokorozawa city. This increased political interference in broadcasting content by the authorities led to a sharp decline in the number of current affairs programmes. NHK, for example, cancelled its current affairs programme '*Machi no koe*', which voiced local concerns on politics and other public issues. Existing programmes, which usually invited commentary from one representative of each political party, have also been pressured to take extreme care to allocate equal time to each politician in the interviews (Tsukamoto 1998). Programmes like NHK's *Nichiyô tôron* gradually decreased the number of the opposition members, and invited more LDP politicians (*ibid.*). The establishment of a 'news monitoring centre' by the LDP right after its total defeat in the 1998 Upper House Election was aimed directly at monitoring 'biased' comments of television newscasters. The LDP organ paper, *Jiyû Shimpô*, launched a new column called '*Terebi haiken*' (See TV) in the same year to monitor and criticise television news and current affairs programmes deemed biased by LDP standards (Maruyama 1999). In 2001, the LDP established a 'Committee to Study Broadcast Revitalisation' to ensure impartial political coverage on television, when the party came under constant attack by television newscasters and commentators for the party's recurring scandals and the Prime Minister's infamous gaffes (*Asahi Shimbun*, 9 February 2001).

Technological change and market deregulation

Due to continuing state interference in, and control over, broadcasting content, the role of Japanese television as an independent medium, which constitutes a voluntary public sphere necessary for the consolidation of civil society, has become difficult. Technological changes in the 1990s have made it clear, however, that it will be more difficult for the Ministry to sustain its level of control within the rapidly changing environment.

Unlike Indonesia and Thailand, broadcasting deregulation in Japan, which began in the 1990s, was by no means a result of internal political reforms. After the major revision in 1988, other attempts to amend the broadcasting law were blocked by the ruling party, which preferred to maintain the status quo protected by the existing regulatory structure. Rather, deregulation was largely brought about by technological change, which pressured the state to liberalise cable television and satellite broadcasting markets. This has opened up the restricted television broadcasting industry to foreign partnerships as well as small operators who were previously kept out of the industry. As mentioned earlier, the existing licensing process in Japan – based on MPT's orchestrated unification adjustment principle (*ipponka chôsei*) – has impeded the development of broadcasting technology. The first Japanese commercial satellite broadcaster was introduced as late as 1991, due to a delay caused by the *ipponka* process. Because of the MPT's preoccupation with preventing excessive competition from fully liberalising the market, it had to arrange for all 264 private applicants from various kinds of businesses, ranging from commercial television operators, newspapers to insurance companies, to merge into a single broadcaster called the Japan Satellite Broadcaster or JSB, which is also known as *Wowow* (Kawasaki 1992: 140).

In combination with public pressure for radical action by the government to deal with the bubble economy in the early 1990s, domestic economic and political factors in Japan compelled the MPT to deregulate broadcasting via communication satellite (CS) and cable television markets (Noble 2000b). In 1992, the MPT revised the Broadcast Law and the Radio Law. It also established the consignment system, which distinguished between facility supplying broadcasters and programme supplying broadcasters. The latter do not need to have broadcasting licences but cannot broadcast any programmes to general household audiences. This new system broke the conventional rule that licensed broadcasters must also produce programmes, as well as reducing the barriers for new entrants in the CS business (Kaifu 1997). In 1993, the MPT also eased regulations on media ownership concentration for ten years to allow terrestrial broadcasters to enter the CS business (Otsuka 1996; Kaifu 1997). The MPT also revised the restrictions on controlling multiple broadcasting stations. This enhanced the introduction of digital signal compression technology which, by using only one set of relaying equipment, allows four to six times the amount broadcast by analogue systems. In 1996, the MPT applied this revision to digital broad-

casting via communication satellites, thus allowing each provider to broadcast multiple channels (Kaifu 1997).

The MPT demonstrated greater acceptance of liberalisation by repealing legislation that limited cable television companies to only one operator per town, village, or ward of a large city, and barred investments from foreigners and firms outside the district (Noble 2000b). In 1993, the Hosokawa Cabinet also announced regulatory changes in cable television by allowing outside firms to invest, and by permitting foreigners to hold up to 33 per cent shares in Japanese cable firms. The MPT further allowed cable companies to operate multiple systems nationwide (*ibid.*). This lift in the foreign ownership barrier produced a surge in the number of US firms joining local cable television companies.

Another legal revision that the MPT undertook was the deletion of the clause in the revised Commercial Law of 1966 that made it the duty of each commercial broadcaster to seek an endorsement from the board of directors prior to transferring company stocks, and to include this provision in its company articles. For nearly thirty years, Japanese commercial broadcasters had refrained from listing their company stocks, thus preventing take-overs and foreign partnerships. In assisting commercial broadcasters to reach the MPT deadline of changing all television, cable television, and satellite broadcasting systems into digital systems by the year 2011, the MPT removed its restrictions on stock listing in 1994 (Kaifu 1997). As a result, commercial broadcasters were able to procure funds necessary for them to participate in MPT satellite broadcasting and digital television projects. However, the MPT still guards the terrestrial broadcasting industry against foreign partnerships. In contrast to the cable television and satellite operating firms whose levels of foreign capital have been lifted to one-third of total capital, the ratio of foreign capital of terrestrial broadcasting companies still stands at 20 per cent. The MPT was apparently unmoved when it comes to the Article 5–4 of the Broadcast Law, which has long protected the major five commercial networks from foreign penetration.

However, this Article did not prevent global media mogul Rupert Murdoch, the President of News Corporation, from channelling his interests into the traditional broadcasting market in Japan. In 1996, News Corp joined forces with the largest software retailer in Japan, Softbank, to launch a CS operator called *J Sky B*. In finding programme suppliers, News Corp and Softbank had jointly purchased 21.4 per cent of TV Asahi's shares without the knowledge of TV Asahi's management (Noble 2000b: 95). Confronted with strong opposition from the shareholders, News Corp and Softbank sold their shares back to Asahi Shimbun (*ibid.*). Soon after, News Corp and Softbank announced that they had found a new partner, Fuji TV, to supply programmes. They had also taken over another carrier, *PerfecTV*, and had been operating under the new name, *Sky PerfecTV*, which was gaining more subscribers than the other existing carrier, DirecTV. Competition between these satellite operators has intensified and gone

beyond previously well-defined national boundaries. A new alliance was also made between TBS and Sumitomo Corporation, one of the biggest corporations in Japan, to launch a new business involving transmitting programmes via satellite to cable television stations in various Asian countries (Dentsu 1998). It seems that the MPT move towards liberalising cable and satellite markets has created a space that has allowed foreigners, who had been kept out of the broadcasting market, to penetrate the previously well-protected market. This move also shifted the fundamental basis of the industry from the compromising and accommodating positions traditionally favoured by the MPT, to more competitive responses to market pressures.

Can new broadcasting technology affect the change in regulations that will assist in the strengthening of the public sphere, necessary to maintain civil society in Japan? As discussed above, Japanese policy for broadcasting technology has been driven largely by economic and industrial considerations, not the social utility of new technology. Most policy interests are finely in tune with the corporate strategies of large companies. This was also the case when the MPT was faced with digitalisation. The MPT established a study group to consider a revision of the Radio Law and the Broadcast Law in May 2000. The study group has been assigned to establish a new definition of broadcasting, which may include the Internet and cell phones. Its main task is to review NHK's activities, and to design new regulations for commercial broadcasting. Since the deadline for the completion of the digital transition is 2011, regional television stations are likely to suffer financial crises in expanding their equipment investments in a short period. As a consequence, the bar on foreign investment in terrestrial broadcasting may be lifted to help increase funding in this area. The existing prefecture-based licensing system and prohibitions on media cross-ownership may also have to be revised for the same reason.

Although the adoption of new broadcasting technologies cannot be avoided, the MPT is not completely powerless in resisting influences considered undesirable. The MPT realised that multi-channel broadcasting would make interference and content monitoring increasingly difficult. Therefore, it decided to establish an 'Advisory Board on the Convergence of Communications and Broadcasting toward the Twenty-First Century' in 1996. Chaired by MPT representatives, the Board aimed at drawing up several countermeasures to monitor the increased volume of information, prevent the decline in programme quality, and focus on politically-biased content made possible by multi-channel broadcasting (Tajima 1996). The Board also drafted programming guidelines for satellite operators to follow. Due to the bureaucratic domination and lack of public participation in this process, these countermeasures have been criticised as merely confidential agreements the MPT has made in an attempt to win better conditions for itself within the confines of its relationship with the corporate broadcasters (Hattori 1999).

With the advent of multi-channel broadcasting, which brings greater competition between different channels to cater for the same audiences, the

MPT cannot sustain its control of the industry. News, information, political debate, and current affairs programmes alongside entertainment are becoming more available and more competitive. For instance, Rupert Murdoch commenced airing twenty-four hours news broadcasts on the *Sky PerfecTV* satellite service in 1998. The CS technology has accommodated live broadcast of daily parliamentary debates known as *kokkai terebi*. Since the basis of imposing control on broadcasting was entirely rooted in the issue of spectrum scarcity, multi-channel broadcasting would make it impossible for the MPT to tighten regulations on the flow and content of information broadcast. Moreover, any strict regulation of broadcasting content would fend off new investors, thus undermining the growth in these new sectors. This technological change is thus expected to strengthen the role of the television medium in Japan to a certain degree in expanding the scope of the public sphere, necessary for the consolidation of a civil society.

Conclusion

After the post-war Broadcast Law was established in Japan in 1950, it was employed to keep the control of broadcasting frequencies within the power of state bureaucrats. The history of MPT's arbitrary control over the licensing system, and the willingness of its bureaucrats to establish collusive relationships with NHK executives and commercial networks through various means has reflected the notion of the 'strong centralised state' that has characterised Japan until recently.

In the 1980s, new broadcasting technology such as cable and satellite broke the conventional protection of terrestrial broadcasters provided by the MPT bureaucrats and the existing regulatory measures. The MPT, for the first time, had to shift its policy objectives – from administrative purposes to an industrial orientation. However, this liberalisation has made little or no contribution towards really reducing the bureaucratic controls and indirect interference in broadcasting content. Rather, this revision has clearly demonstrated a successful ministerial attempt to re-regulate control over content. Yet, changes in news and current affairs programmes in the 1980s signalled a positive development, as they bypassed the system of the reporters' clubs and promoted public participation in political and social debates. These programmes thus enhanced the role of television as a public space. Noticeably, these programmes emerged in concurrence with the increased popularity of the 'civil society concept' among non-profit organisations and the media.

Further changes in broadcasting technology in the 1990s eventually forced the MPT to opt for drafting a new broadcast law. However, the recommendations made in the draft thus far have indicated the confirmation of economic and industrial policy objectives in tune with corporate strategies that are concerned more about the image and packaging of information than its pluralism and diversity. Unless the new broadcast law is written in a

way that provides a legal framework that ensures creation of a system in which all concerned parties have equal access to the frequencies and the independence of television's function as a public sphere, then the domination of the MPT over broadcasting policy and its controls over content will ensure that the contribution television can make to strengthen civil society in Japan is kept to a minimum.

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10 Civil society as the fifth estate

Civil society, media reform and democracy in Korea

Ki-Sung Kwak

Since the Korean War (1950–53), South Korea (hereafter Korea) has undergone a series of political changes. The move towards democratisation was largely spurred on by the demonstrations and riots occurring throughout the 1980s. In 1987 massive demonstrations forced the then President Chun Doo-Hwan to call a new presidential election, and President-elect Roh Tae-Woo to implement more social reforms. The notion of civil society in Korea has been a relatively new concept until very recently, mainly because it has not achieved wide recognition from the public, media or the state. The development of a people's movement advocating democracy could be said to be the foundation of 'civil society' in Korea.

This chapter offers an interpretation of the emergence of civil society in Korea as it has come to symbolise the struggles over democracy in Korea. It attempts to examine the role of civil society in post-1987 Korea by focusing on the relationship between civil society, television and its regulation. In order to achieve this broad aim, this chapter first reviews the historical development of civil society in Korea. It then examines the context of the development and transformation of television broadcasting, and the ways in which the Korean state has regulated television. Finally, based on the examination of the historical development of civil society, television and its regulation, this chapter attempts to connect the role of civil society with television and its regulation in Korea.

Historical development of civil society in Korea

The origin of civil society in Korea is somewhat difficult to pinpoint largely because the nature of 'civil society' in Korea has been different from the social formation as understood in the West. Unlike in Western countries, where civil society coexists with the state and government, civil society in modern Korea has emerged before democracy has been fully established. The evolution of civil society in Korea corresponds to the development of democracy. Its emergence as a powerful institution is reflected in the state's and the media's recognition of the importance of various issues voiced by civil society.

Although the origin of civil society in Korea can be traced back to the late nineteenth century when the Independence Club was founded by So Jae-Pil, who strove for independence from Japan's influence, it would be more appropriate to focus on civil society in more recent times. The reason for this is directly associated with Korea's history. During the Chosun Dynasty (1392–1910), the strict hierarchical society based on Confucianism hindered social mobility, and capital accumulation, although it was allowed, was significantly restricted. The absence of civil society continued during the Japanese occupation period (1910–45), when Japan's 'divide and rule' policy eliminated any possibility of civil society in Korea. It is therefore true to say that the existence and formation of civil society in Korea was virtually impossible until the 1950s.

Throughout the 1960s and 1970s, the development of civil society in Korea was hampered by the excessive emphasis on growth in the economy of modern industrial Korea. Korea achieved modernisation and rapid industrialisation after the Korean War. Civil organisations in Korea in the 1960s, 1970s, and the first half of the 1980s mainly developed in opposition to the military governments. Prior to 1961, when Park Jung-Hee came to power after successfully leading a military coup, Korea had relied solely on foreign aid (mainly from the USA) for setting up and developing its economic and social structure. After the Korean War, the April Revolution of 1960 is regarded as the first political movement for democracy, which was followed by a sequence of student-led pro-democracy movements. These ideology-based political movements aimed at changing the political system rather than seeking participation in the policy-making process. Undoubtedly, these movements were seen as a challenge to state authority and therefore had to be repressed. The oppression of political and social movements continued until the early 1990s.

Civil or social movements were severely oppressed by the state until 1987 when the newly-elect President Rho Tae-Woo made a declaration which included democratic measures in various areas. Freedom of the press was guaranteed, various measures of control which had been exerted on the mass media were lifted, and the formation of unions, which had been banned, was allowed. The democratic transition under the Rho Tae-Woo government, however, did not entail a fundamental shift in the authoritarian nature of political leadership because authoritarians and democrats were allowed to coexist (Shin 1999: 249).

Civil society in Korea has developed within three groups: industrial workers, students and middle-class citizens (Kim 1999; Lee 1996). Prior to 1987, the 'grassroots' movements, which were normally represented by students and labour movements, were considered radical and their existence was hardly recognised and their role largely underestimated. The majority of these movements received minimal attention in the media, and the Korean people's perception of these movements has been negative. Since the 1990s, the grassroots and student-led movements have significantly weakened.

However, this does not mean that these movements have disappeared. Rather, the radicalisation of social movements has cast doubt on their extreme strategies, and militant and radical elements of both student and labour movements are increasingly criticised by NGOs.

A profound change in Korean politics saw the birth of a civilian government and a fully-pledged democracy in 1993 when Kim Young-Sam became the first civilian president since 1960. Since then, a small number of civil groups were established, but their role was limited in that the government still maintained a strict position in oppressing these organisations. The nature of civil society significantly changed in the late 1990s when the long-time opposition leader, Kim Dae-Jung, who had supported and actively participated in the civil movement in the past, became the president.

Given the traditional nature of social movements in the past, which were ideology-based and anti-government, civil movements earned enormous popularity with full or partial support of the government. Indeed, the number of civil organisations reached 4,023 in 1999 and 6,000 in 2000, up from 3,500 in 1997 (Directory of Civil Organisations 2000). Because Kim Dae-Jung was aware of the importance of civil society, he encouraged it to play a watchdog role. The power of civil society and citizen's groups in modern Korea was well demonstrated during the 2000 general election. The Citizens' Alliance for the 2000 General Elections (CAGE), which was initially formed by politically conscientious citizens in late 1999, launched a nationwide campaign to discredit unfit National Assembly candidates by unveiling their names and deeds. The main aim of the CAGE was twofold: 'no-nomination' and 'no-vote'. When the CAGE revealed a blacklist which contained the names of unsuitable candidates based on criteria such as their involvement in corruption, immoral behaviour, association with past military-led governments and the like before the election, both politicians and the general public were stunned. Many influential politicians were on the list, including the leader of the ruling coalition party, the United Liberal Democrats. The CAGE not only put pressure on the political parties not to nominate those listed in the CAGE's blacklist, but also strongly encouraged voters to refrain from casting ballots for those on the blacklist. Political parties had to take this into consideration in their nomination of candidates. As a result, the CAGE, a collective of about 470 NGOs, managed to defeat fifty-nine (70 per cent) of the eighty-six candidates it judged incompetent, corrupt or too lazy to hold office (*Korea Herald*, 15 April 2000). Boosted by the magnitude of the support and influence the CAGE demonstrated during the election, a number of citizen groups with different interests emerged, and currently it is estimated that there are more than 20,000 NGOs (*Hankook Daily*, 12 July 2001).

This brief review of the historical development of civil society in Korea shows that civil society in Korea has played a significant role in advancing democracy. However, the level of influence it has exerted has varied with the issues it has focused on. The issues on which civil society has had limited

influence are largely the ideology related ones, such as human rights issues and policies towards North Korea. In addressing the issue of reunification, for example, the role of civil society has been very limited, mainly because the state has manipulated non-governmental organisations and used them as a tool both to gain a wider consensus and to legitimise the state's policy (He 1999: 43). In 1996, when radical associations occupied one of the universities in Seoul and demanded the freedom of activist prisoners and the abolition of the Korean CIA (Central Intelligence Agency) Law, the state showed no room for negotiation and dispersed them by force. More recently, after Kim Dae-Jung's visit to North Korea in the middle of 2000, a number of conservative newspapers have criticised his soft policy towards North Korea. They claimed that Kim Dae-Jung acted without considering the local economic situation and public opinion, and that South Korea was giving too much economic aid to North Korea without receiving any firm promises from the North for easing tensions in the Korean peninsula. These claims, however, have hardly been voiced or supported by civil organisations.

Issues of civil society

Until 1998, civil movements had been mainly pro-democracy and anti-government oriented. This was significantly changed, however, when Kim Dae-Jung, who fought for democracy in Korea for many years, became the president. Some activists and leaders of civil organisations were scouted by the new government because they had long supported the democracy Kim Dae-Jung pledged to achieve as opposition leader. This, to a certain extent, supports an argument made by the eminent communication scholar Professor Yoo, of Ewha Women's University, that the broad aim pursued by civil society and the new president became identical (personal interview, Seoul, 19 April 2001). Kim Dae-Jung's election has led to civil society changing its focus to concentrate more on social issues. Despite its increasing popularity and influence, however, civil society in Korea has been criticised for its ineffective operations, which have often been politicised. The ambivalent boundaries between civil society and politics and a certain lack of self-examination are the major hurdles which hinder the further development of civil society in Korea.

Politicisation of civil society

While civil society gained increasing recognition after 1998, it also became vulnerable to political influence. The issues and demands presented by civil organisations have not been restricted to specific issues but have been comprehensive and general (Cho 1999; Lim 2000). The organisational structure of the CCEJ (Citizens' Coalition for Economic Justice), for example, has twenty sectional divisions, each of which deals with different matters. Therefore, it is difficult to form a consensus view on specific issues. The type

and scale of issues dealt with by civil organisations have been diversified, rather than focusing on small-scale issues based on consensus. This means that organisations have been interested in sensational issues, and their demands have been largely voiced through solidarity (*Chosun Daily*, 15 June 2001).

The politicisation of civil society can also be linked to the leadership of these organisations. The majority of civil organisations were established by a small number of intellectuals or experts in specific areas. Because the general public did not participate actively in these organisations, their direction has been decided by their leaders or leading groups. As long as these organisations are operated and represented by only a few intellectuals or experts, they are not only bureaucratic, but also highly vulnerable to external factors. For example, when the full-time workers at the CCEJ criticised their secretary general for deceiving members by publishing someone else's work in a newspaper column under his name, they had to leave the organisation. Also, when the secretary general of Environmental Protection was accused of sexual harassment by a university student, the image of the organisation was greatly tarnished and the operation of the organisation was affected.

In the second half of the 1990s, some of the leaders and core members of civil organisations were scouted by the government and some ultimately became members of the National Assembly (Kim 1998: 308). More recently, in early 2001, a former editor and the leader of the People's Coalition for Media Reform, one of the major civil organisations that aims to achieve media reform, was appointed as the president of the MBC (Munhwa Broadcasting Company). Some leaders of civil organisations are career-conscious and tend to use their organisations as a major platform for advancing their future. This trend, to a certain extent, is similar to the migration pattern of elite press members who were lured by the government and political parties in the 1980s and early 1990s (Park *et al.* 1994).

Financial vulnerability

From the outset of their operation in the 1970s and 1980s, many of the civil society organisations in Korea relied on donations from government. Even after the late 1980s, the government has continuously provided financial support for a range of these organisations. The traditional justification behind government sponsorship is that social organisations in the 1970s and early 1980s operated without any commercial motives. While these organisations maintained their distance from commercial interests, they could not however criticise the government of the day, the main financial provider of their operations. The vulnerability of civil society organisations to charges of this kind was clear when it became known that they received substantial funds from government organisations. For instance, the Citizens' Coalition for Medical Reform which includes the CCEJ received US\$550,000 from the Ministry of Health in return for the promotion of medical reform and

consumers' education (*Hankook Daily*, 31 October 2000). The CCEJ also received the sum of US\$700,000 from various ministries, mainly from the Ministry of Labour in 1998 and 1999. Similarly, the Coalition for Women's Rights and the Environmental Movement received supporting or promotional funds from various ministries. The prevalence of government-sponsored social organisations, a product of previous authoritarian regimes, has raised an important question about the function of civil associations as watchdogs of society. Has the development of civil society been hampered as a result of its dependence upon government sponsorship thereby weakening its critical stance towards the state? This practice also explains the dilemma that civil organisations are facing nowadays. Rather than competing with the state and government, the civil organisations have rather maintained a close relationship with government.

Lack of public participation

The financial vulnerability of civil society mentioned above can be interpreted in several ways. First of all, the majority of civil organisations do not have enough members, so their existence has depended on external sources, particularly government. A number of studies have shown that these organisations failed to attract the general public's allegiance. Indeed, civil organisations were operated by a small number of intellectuals and activists who led the anti-government movements in the past when authoritarian governments ruled the country. This 'top-down' nature of civil organisations has often been associated with the relative absence of the general public within civil society. A fundamental issue to be addressed here is the reluctance of Korean citizens to participate actively in civil society.

Although it is difficult to pinpoint exact reasons for the lack of participation, it can be explained in part by looking at the typical characteristics and patterns of the Korean people's participation in non-political associations. Shin (1999) provides an interesting observation based on his examination of Koreans' activeness, as democratic citizens, under the democratic state since the early 1990s. Traditionally, most Koreans have been affiliated with associations which are reminiscent of pre-industrial or traditional village life, such as fraternal associations (alumni and clan associations, for example), and religious associations (churches and temples). In stark contrast to this trend, only a small number of them have been associated with modern types of civil organisations, such as economic interest groups, or social and cultural organisations which involve people's participation without personal ties (Shin 1999: 107–8). The importance of personal ties is further supported by Song's (2000) findings which show that social movements in Korea have been based more on 'personalised mobilisation' than cognitive mobilisation. This means that participants are mobilised through personal ties and individual networks, such as regional or school ties, rather than through a generally shared motivation that is nurtured by individuals' genuine interest

(or ideology) and keenness in the issues involved. This brief review of civil society has shown that civil associations which enjoyed government support inhibited the development of a critical civil society in Korea. The regulation of broadcasting was also an inhibiting factor, and I will turn to that issue below.

Regulatory history of television broadcasting in Korea

Throughout its existence, there have been significant changes in the structure of television broadcasting in Korea. These changes, without exception, have been made by the political leadership. Surprisingly, the major regulatory framework which was created in 1963 remained virtually unchanged until recently with the exception of the creation of a seemingly independent regulatory body, the Korean Broadcasting Commission (KBC) in 1981 which had no licensing powers and whose role has been limited to content issues. The role of the state in the historical development of television broadcasting in Korea clearly shows that the relationship between the state and television broadcasters has mainly been concerned with serving the interests and priorities of the state rather than those of the public and/or other interests.

The regulation of television broadcasting in the 1960s and 1970s was characterised by strong control enforced by the state in pursuit of its interests and its national priorities. The first television broadcaster, the KBC (Korean Broadcasting Corporation – now KBS) was part of the state sector and operated under the control of the Ministry of Information (now the Ministry of Information and Communication). Tight control, however, was not exercised by relying on a specific regulatory framework. During the economic boom of the 1960s and 1970s, the state, operating as a senior partner to big local capitalists, encouraged business conglomerates to be competitive in the international market. As a result, two commercial broadcasters, the TBC (Tongyang Broadcasting Company), owned by the Samsung Group, and MBC (Munhwa Broadcasting Company), owned by a daily newspaper, were introduced in 1964 and 1969 respectively. The two commercial television broadcasters, however, were not exempted from state control. The two stations were obliged to report summaries of their broadcasting activities to state authorities on a monthly basis. As long as the commercial television broadcasters shared the state's economic and political interests, the state was committed to maintaining them in operation (Yoon 1994). The lack of a regulatory framework in the early days of television broadcasting in the 1960s resulted in fierce competition among broadcasters over programming content and an overabundance of entertainment programmes.

Until the 1973 revision of the 1963 Broadcast Law which regulated radio and television broadcasting, television broadcasters had a relatively high degree of latitude in the formulation of their programmes. This relative freedom in programme formation in the 1960s, however, should not be seen

as a result of deliberate relaxation of state regulatory policy which guaranteed freedom of television programming, but as a result of the *absence* of regulation policies: freedom by default rather than design. The duopoly system started with the transformation of the state-owned and run KBS (Korean Broadcasting System) into a public broadcasting corporation in 1973, resulting in greater competition in programming. The transformation of KBS into a public corporation, however, did not mean autonomy for the KBS from the state.

Television and its regulation underwent a major restructure in 1980 when another military general, later President, Chun Doo-Hwan capitalised on the political vacuum created by the assassination of President Park in 1979. The most notable change was the replacement of the 1973 Broadcast Law with the Basic Press Law, which combined all existing media laws into one and stipulated the obligations of the media. Under the Basic Press Law, all broadcasters were placed under the umbrella of public broadcasting. As a result, the existing commercial television broadcaster, TBC (Tong-Yang Broadcasting Company), was merged with public broadcaster KBS and renamed KBS2, and another commercial broadcaster, MBC, became a public broadcaster, while still retaining its revenue stream from advertising.

Another change was the creation in 1981 of a seemingly independent mediating regulator, the KBC (Korean Broadcasting Commission). The role of the KBC, however, has been mainly in monitoring programmes. Given that nine members of board were all appointed by the state, and that it had little or no major regulatory powers such as licensing powers, it is fair to say that the KBC was created from the state's intention to give the appearance of democratic process. This is further evidenced by the fact that the KBC has not been invited to participate in planning and implementing broadcasting policy. Virtually all broadcasting policy matters were discussed and decided by government ministries, namely the Ministry of Information and the Ministry of Communication.

The state's control over television broadcasting in the first half of the 1980s has been justified in terms of the priority given to the political and cultural significance of television. The notorious daily guidelines on programming, which had been issued by the government since 1973 and dealt with such matters as how to deal with controversial issues and topics, became more pronounced under the Basic Press Law in 1980.

Korea saw another change in media regulation with President Rho's popular June Declaration in 1987 which guaranteed the freedom of the press. While scholars assess that Rho contributed significantly to the democratisation of Korean media, for example, by prohibiting government's overt control over media and by abolishing the Basic Press Law and replacing it with the Broadcast Law and the Periodicals Law, Western scholars have observed that the degree of freedom given to the Korean media was moderate and limited in its scope (Heuvel and Dennis 1993). Unlike the regulatory practice in the 1970s and 1980s when direct control

measures were imposed, the state has not always exercised explicit and direct control of television broadcasting in the 1990s. The relationship between the state and television broadcasters in Korea is exemplified by two specific measures which have been continuously exercised by the state for controlling the broadcasters: administrative guidance and control over the appointment of senior personnel. That the relationship is close is evident, first, from the fact that the government's administrative guidance has not been seriously challenged by broadcasters and, second, from the state's long-term practice of what Latzer (1995) called the 'institutionalised exchange of personnel' through which former government members are employed in high positions in the television industry. However, whether these two measures of control qualify for explaining the closeness of the relationship between the state and television broadcasters on equal and open terms remains highly questionable. It is mainly because, from the point of view of the television broadcasters, those measures are seen as a common practice in the regulatory tradition of television broadcasting in Korea under which the threats have been reserved on the state's side.

The experience in Korea demonstrates that the regulation of television broadcasting, which has been characterised by a strong degree of political control, has changed somewhat with the introduction of new broadcast media. The new developments have been motivated by both cultural and economic factors. Although cable television was introduced for political purposes by President Rho who guaranteed the introduction of cable television in an election pledge, it is important to understand the factors and the context in which the establishment of cable television was further developed. First, the state believed that the reception of trans-border signals from Japan since the 1980s, and from Hong Kong since 1992, had unfavourable cultural influences on Korean society. This has been particularly true since the early 1990s, when spill-over from the Japanese satellite broadcasting reached Korean audiences, despite the Korean government's complaints against it. Given Korea's traditional hostility to Japan and fear of its influence, the exposure to Japanese programmes has been regarded as a serious threat to the Korean state.

Second, there was a growing dissatisfaction amongst the public with the homogeneous nature and the low quality of programmes on the existing free-to-air (terrestrial) television broadcasting channels even after the start of commercial television broadcasting in 1991. In response to these issues, the state directed its attention to introducing diverse channels in order to provide greater programme choices to select from while preserving the duopoly of the public-commercial broadcasting system. This change in attitude by the state foreshadowed the introduction of cable, satellite television and local commercial television. As a consequence, both cable television and local commercial television launched in 1995. However, satellite television could not start as planned because of the absence of a legal basis. The changes in the broadcasting environment created by the emergence of new

media technologies have inevitably forced the state to change its regulatory structure. Accordingly, the Cable Broadcasting Law was established and some minor changes were made concerning foreign investment in programme production.

The issue of the change of the existing broadcast law was first raised as early as 1993 when newly-elected Kim Young-Sam, the first civilian president in Korea in more than thirty years, made it part of his reform effort. Since its introduction, however, the proposed law has been continuously blocked at the National Assembly due to different interests and views about the key issues contained in the proposed New Broadcast Law, particularly the role of the KBC and the permission for business conglomerates and newspaper companies to participate in satellite broadcasting (KPI 1997). The proposed New Broadcast Law has been further overshadowed by local politics, including the prosecution of Kim Hyun-Chul, son of President Kim Young-Sam, for receiving slush funds from business conglomerates, and then by the economic crisis which emerged at the end of 1997 (Kwak 1999).

Broadcast Law 2000

Despite Kim Dae-Jung's election promise to pass the long overdue new broadcast law, the proposed new law was shelved again in the 1998 National Assembly due to the lack of consensus in a number of areas, including the composition of the KBC membership, the role of the KBS Board and the participation of newspaper companies and business conglomerates in satellite television. In December 1998, President Kim ordered the establishment of a tentative committee, the Broadcast Reform Committee, to complete the final draft accommodating a broad cross section of professional opinion on broadcasting and its regulatory issues. The New Broadcast Law was finally passed in the National Assembly at the end of 1999, almost six years after its first draft was proposed.

Table 10.1 summarises major changes in the role of the regulator and ownership. In terms of the regulatory structure, the new law not only consolidates existing broadcast-related laws, such as the Broadcast Law and Cable Law, but also endows the Korean Broadcasting Commission with licensing powers which in the past had been exercised by the Ministry of Information and the Ministry of Communication. However, there still exist controversies surrounding the licensing power KBC has been granted and its independent role as a single regulator. While the original rationale for consolidating all existing laws was to simplify the regulatory structure, and to empower the KBC with the carriage of all broadcasting matters including ultimate licensing power, the new law does not specify the boundary of the licensing power the two regulators (MOIC and KBC) have. Neither does the law guarantee KBC's independence from the state in the process of the development of broadcasting policy. This has been already shown in 2001

Table 10.1 A summary of major changes made in the New Broadcast Law 2000

	<i>New Broadcast Law 2000</i>	<i>Broadcast Law 1990</i>	<i>Cable TV Law 1991</i>
Licensing power	MOIC issues/renews/provokes licence with recommendation of the KBC.	MOI issues/renews/ provokes licence with recommendation of the MOC.	MOI issues/renews licence for station operators and programme providers. MOC issues for network operators.
Regulator	KBC	KBC	KCBC **
Members	Recommended by the government (3), chairperson of the National Assembly (3), and the standing committee on culture and tourism in the National Assembly (3 *). Appointed by the President.	Recommended by the government (3), Supreme Justice (3), and chairperson of the National Assembly (3). Appointed by the President.	Recommended and appointed by the MOI (7 –11).
Main role	Broadcasting policy/plan; Broadcasting standards; Licensing/renewing; Arbiter/mediator; Audience complaints; Managment of Broadcasting Development Fund.	Review of broadcasting standards. Post-view of programmes. Audience complaints.	Review of Committee Regulations. Monitoring of contents. Audience complaints.

Ownership	Newspaper companies or other companies cannot own more than 1/3rd of cable or satellite TV operators. Free-to-air broadcaster cannot own more than 1/3rd of satellite TV operators. Satellite operator can not own more than 1/3rd of cable TV operators. KBS is obliged to broadcast programmes produced by general public. Broadcasters are obliged to produce programmes which involve general public. Broadcasters must have internal audience committee. Broadcasters are obliged to reflect advice of the Audience Committee in the programming.	Big business conglomerates and newspaper companies cannot participate in broadcasting, and vice versa.	Programme provider cannot own more than one channel. Multiple/cross ownership in programme provision and station operation is prohibited.
Civil rights			

Source: Compiled from Broadcast Law (2000), Broadcast Law (1990) and Cable TV Law (1991).

Notes:

* The standing committee on culture and tourism has to nominate at least one member from the citizen groups

** KCBC: Korean Cable Broadcasting Committee

when the Ministry of Culture and Tourism made a policy statement on the future of digital television without any consultation with the KBC.

Apart from the changes stated above, however, the law reflects the growing importance of civil society and civil rights by promoting viewers' participation in the operation and programming of television broadcasting. First of all, each of the broadcasters is required to have its own internal audience committee whose members include representatives of civil organisations. The committee is required to advise on programming, programme content and internal code of practice (Broadcast Law 2000, Article 88). In the past, broadcasters had similar types of internal committees. However, their power to change any undesirable practices repeated by the broadcasters was minimal and they were given no authority or power to advise, suggest or correct television operations and programming. In this sense, the existence of internal committees in the past was largely symbolic, giving an appearance that the broadcasters were responsible for and responsive to the audience. Under the new law, however, the internal audience committee can advise on various aspects of scheduling and programmes, and broadcasters are obliged to reflect the committee's opinions and views in their programming. When the committee decides that a particular programme or programming schedule needs to be amended or changed, broadcasters, upon receiving the committee's advice, are required to take appropriate measures, and have to inform the KBC. The details of the operation of internal committee have to be reported to the KBC every year (Broadcast Law, Additional Enforcement Ordinance 2000, Section 64:5).

Secondly, the law requires broadcasters to include programmes which allow the general public to participate and raise its voice. Terrestrial broadcasters are obliged to allocate at least sixty minutes a week to the programmes which directly address the audience's views and concerns on television operation and programming (Article 89). With regard to the public's participation in the programmes, another section added in the law is the audience's direct participation in programming. The new law obliges KBS 1, a national public broadcaster, to include programmes ('public access programmes') made by the general public in its programming schedule (Article 69.6). The additional enforcement ordinance of the New Broadcast Law specifies the duration of such programmes to be more than 100 minutes a month (Section 51: 1).

According to the law, anybody can make a programme for the KBS; however, given the complexities involved, such as the quality of the programme and its production cost, it is only possible for organisations that have experience and resources to do that. In an immediate response to this opportunity, twenty-four civil organisations formed the Civil Organisation for Public Access Program to help civil organisations produce programmes for the KBS. Several organisations also expressed their interest, such as the Democratic Labour Union, the Comfort Women's Committee, the People's Coalition for Media Reform, and the Democratic Media (*Media Today*, 10

May 2001). Although production costs are met by KBS, there still remain several issues. Undoubtedly, KBS's major concern is the quality of the programme. If the programmes made by civil organisations do not meet the KBS's expectation, the programme will not be aired.

Civil society, media and the state

While in the 1970s and 1980s television broadcasters were responsive only to the demands of the state, in the 1990s, both the state and television broadcasters began to realise the general public's interest in all areas of broadcasting and the need to respond to this situation. The start of regular television programmes that discussed political and social issues roughly coincided with the start of civilian government in 1993. Although civil society had emerged in 1987, it had not been represented in the media. Contrary to what was expected during the promising transition from military to democratic rule, political culture did not consolidate in a quick and steady fashion over the decade of democratic reform (Shin 1999). During Rho's presidency, the control over television had been managed under the same regulatory framework that had served previous military governments.

As civil society in Korea in the late 1990s began to be perceived as the 'fifth estate', placed after the press, there began to be significant changes in the Korean media's perception towards civil society. This change was first noted by the fact that major newspapers established new sections which deal with civil society and civil rights. Two national broadcasters, the KBS and the MBC, regularly aired discussion programmes, normally in the late night slot, and representatives of civil organisations were often invited as panel members.

It is interesting to reflect, however, on whether the sense of responsibility towards the public reflected in the media was the result of the influence civil society exerted on the broadcasters, or the influence the civilian government exerted on the broadcasters. In order to answer to this question it is necessary to examine the historical perception the television broadcasters have had towards the public and civil society, and the specific context in which the state began to take them into consideration in the process of making broadcasting policies.

Social movements covering media issues, television in particular, were hardly visible in the 1960s, 1970s and the first half of the 1980s when the media, as a government mouthpiece, was heavily controlled by the state. Although there was sporadic resistance against the government control over the media, and newspapers in particular, it was either individual journalists who voiced their views or readers who anonymously supported anti-government newspapers. In 1974, for example, journalists from the *Dong-A Daily*, one of the oldest newspapers in Korea, protested against government interference in their day-to-day operation and urged the government to stop posting Korean CIA agents in their newsroom as censors. At the same time,

they managed to publish the stories Korean people wanted, such as stories about political and social issues, without government censorship (although it didn't last long!). Faced with an embarrassing situation, the government put pressure on the advertisers to withdraw or cancel their contract with *Dong-A Daily*. As a result, *Dong-A* lost 98 per cent of its advertising, and had to publish without advertisements. Contrary to the government's expectation, however, individual readers supported the paper by placing ads in the classified section for several months.

Since then, however, civil movements focusing on media issues have been represented in an organised fashion. In the early 1980s, although the scale was small, the Catholic churches initiated a movement to urge television programmes, particularly news and current affairs, to be fair and accurate. The first organised civil movement on television was the 'boycott of the licence fee' campaign in 1986, which encouraged people not to pay the licence fee. The broadcast law obliged every Korean household with a television set to pay a licence fee for watching KBS. This campaign was initiated by the Korean Churches Association, and later gained nationwide support from various groups, such as other religious groups, women's groups and social organisations. Although the campaign targeted a particular broadcaster, it attempted to voice strong concern about the government's control over news and current affairs programmes. It was in the 1990s when a small but significant sign of public influence on television began to emerge. For example, a campaign to turn off television which was launched by the Seoul YMCA Viewers Group in mid-1993 caused the viewership rates to fall by 5 per cent (KPI 1994: 9).

The influence of civil movements upon the media has become more visible in recent times. An example which shows the changes in the media's attitude towards opinions voiced by civil society groups can be found in the 'Miss Korea Contest', an annual event broadcast live by MBC, one of the major sponsors of the event. For many years, this event was criticised by various organisations, particularly women's organisations, which argued that the contest commercialised and degraded women, and that the criteria for judging 'beauty' were subjective and mainly emphasised physical beauty. MBC acknowledged that it had various problems with the contest and stated its intention to stop broadcasting the contest from the following year (*Media Today*, 17 May 2001). Supportive reports soon followed in several newspapers. This case shows that pressure from civil organisations brought changes in the media's perception of its long-established stereotyped attitudes towards certain issues.

This, however, does not mean the relationship between the media and civil society has been close and cooperative. The issues emerging in the process of recent media reform show that the relationship can be quite the opposite. Media reform, one of Kim Dae-Jung's major reform packages, was initiated by civil organisations led by the People's Coalition for Media Reform (PCMR). The PCMR was established in 1998 with representatives

from press and civil groups, such as the Journalist's Association, the Korean Federation of Press Unions and Broadcasting Producers Association of Korea, the Lawyers' Association for Democratic Society, the Professors' Association for Democratic Society, the Christian Society for Better Society, the Citizens' Coalition for Economic Justice and the Legal Advisory Group for Victims of the Press. Since its inception, the PCMR has been actively involved in major media issues, such as the New Broadcast Law and media reform. Pointing out several issues – such as the unfair competition practices by large newspaper companies, the separation of editorship from management, and the financial benefits favouring the newspaper companies – the PCMR urged immediate reform of newspapers, large newspapers in particular.

Another of their demands was a tax investigation of all media. This was a serious challenge for the Korean media which in the past had enjoyed tax-exemption. Although there was an investigation into media companies' tax compliance in 1993, the results were not revealed. Kim Dae-Jung, however, ordered a tax investigation in early 2001. When the National Tax Office announced the amount of the alleged tax evasion by a number of newspaper companies and broadcasters, the large conservative newspapers, such as *Chosun Daily*, *ChoongAng Daily* and *Dong-A Daily*, were at the top of the list. These conservative papers have criticised Kim Dae-Jung government's policies, such as his policy towards North Korea. These newspapers, with support from the leading opposition party, claimed that 'the government is trying to control the media', while the government maintained its justification for the enquiry was that 'all companies must abide by Tax Law and Fair Trade Law'. This issue clearly shows the complexity of the media–state–civil society relationship in Korea. It also exposes the conflicts amongst the media, particularly conflicts between newspapers and television broadcasters. These newspapers and opposition parties became hostile towards the civil organisations that had initiated the reform. Their criticism also extended to television broadcasters that aired programmes on newspaper reform. They questioned the role of civil organisations in Korea, labelling them as pro-government organisations.

In order to better understand the context in which the Korean state began to listen to and/or accommodate the views on television voiced by the public and civil society, it is worth examining the policy-making process of television broadcasting in Korea. This process is an arena which often shows how the relationship between civil society, television broadcasters and the state have changed. First and foremost, broadcasting policy has always been simply stated or announced after all the decisions have been made within the government bureaucracy – namely, the Blue House (equivalent to White House in the US) and MOI (Ministry of Information) (Jung 1993). In this process, participation and input from other state authorities, such as the National Assembly and the Supreme Court has been minimal. Similarly, the broadcasters' and the general public's role have been minimal, or not even

considered. For example, the Broadcast Law of 1963 and the Basic Press Law of 1981 were passed not in the National Assembly, but in the National Security Council, an interim super organisation which was established in a situation when the political activities of the National Assembly and other opposition parties were prohibited (Park 1988). Another example is the revision of the Broadcast Law. This law was passed in 1990 with the support of only pro-government legislators, namely the members of the ruling party attending the National Assembly. It is also worth noting that when the MOI is making broadcasting policies, the advice of the KBC and broadcasting experts have hardly been sought, nor has it provided any opportunities for public hearings or seminars on the issues. More recently, although public opinion was sought during the policy-making process of the Cable Broadcast Law and the selection process of cable operators in the first half of 1990s, they had little influence on decisions which were foregone conclusions (Jung 1996).

A notable change in the state's policy-making process of broadcasting occurred when Kim Dae-Jung established the Media Reform Committee under his direct supervision in late 1998. The Committee's main task was to resolve all existing conflicts on controversial issues and prepare a revised law in three to four months' time. The Committee, led by an academic, consisted of government officials, television broadcasters and representatives of civil groups. The inclusion of representatives of civil groups was a significant change in state perceptions of civil society in Korea. Indeed, although there had been a number of broadcasting-related committees (many of them interim) established since the early 1990s, civil society had largely been ignored or neglected and civil groups had never been invited to the committees. Although it is difficult to measure the exact level of influence civil groups had on the Media Reform Committee, it was an important turning point in which civil society could voice its opinion on broadcasting issues by participating directly in the policy-making process. The issues the civil groups claimed in the committee included political independence and objectivity in broadcasting and civil rights. As reviewed in the previous section, the inclusion of civil rights in the law was a victory for civil society. 'The new government had to accept what they [committee members representing civil organisations] claimed mainly because it was less sensitive than other issues which involved different interests and conflicts, such as the selection of the satellite television operator, the role of the KBC, etc.' (personal interview with Deputy Director, Research Division, KBC, 17 April 2001). This statement clearly supports an argument that in the process of finalising the New Broadcast Law, civil society and civil groups have contributed, albeit with limited effect, to a transition towards a democratic climate in broadcasting by successfully including civil rights in the law.

Conclusion

This chapter has attempted to connect civil society with television and its regulation in Korea. During its short history, civil society in Korea has undoubtedly helped advance democracy and has contributed much to raising public awareness for various issues such as consumer economics, the environment, human rights and women. The growing influence it has demonstrated in recent political and social development in Korea further shows that the future role of civil society in Korea is promising. This is particularly so because both the state and media, which had turned their backs on civil society for several decades, began to see civil society as an emerging powerful institution. The role of civil society in television and its regulation needs to be understood in a complex relational context in which civil society, media and the state have all struggled to take a leading role in a three-way relationship. This appears to be one of the critical issues that needs to be raised in the future role of civil society in Korea. In the past, civil society in Korea was virtually ignored, and, if not, was not seriously considered. This was particularly so when the state constantly suppressed the development of civil society until the early 1990s. When the media was under the strict control of authoritarian governments (1961–93), there was virtually no place for civil society to gain support from the general public. During this period, the Korean media, under strict censorship, largely contributed to helping the state achieve its aims by silencing the issues voiced by social and civil organisations. In this sense, it is proper to say that the development of civil society in Korea has been, to a large extent, paralleled with the development of the media reforms.

Civil society in Korea has been closely linked to issues surrounding ‘people’s rights’. This is somewhat in contrast to Western experience of defining civil society such as ‘quality of life’ (Hann 1996). The role of civil society on television has not gone beyond this boundary. Based on the observations made in this chapter, it may be proper to conclude that civil society in Korea is in a transitional period – moving from total ignorance to an increasing recognition by the public, media and the state. Issues surrounding the role of civil society, such as the politicisation of civil organisations and the issues they pursue, the lack of criticism of the current government and the lack of citizens’ participation, need to be understood in the broader context of Korea’s political, social and cultural tradition.

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Part IV

Beyond the nation

Satellite television

11 National sovereignty in an age of transnational television

An endnote on media regulation and civil society in Asia

Amos Owen Thomas

The phenomenal growth of transnational television in Asia has been perceived as a threat to national sovereignty by governments, and has precipitated a variety of responses across Asia. Domestic media controlled by nationalistic governments have long ignored social aspirations and cultural tastes which the transnational medium subsequently catered to with considerable success. Hence audiences and local entrepreneurs have circumvented various restrictions imposed on access causing governments to relent. Deregulation has led further to collusion between big business and political elites, involving both transnational and domestic media, while undermining the nation-state. But rather than being a voice or even just a space for subnational or transnational civil societies, these newer commercial media have reconstituted them as audience markets to be sold to advertisers. This concluding chapter attempts a critical analysis of the role, reception and regulation of transnational satellite television across much of Northeast and Southeast Asia. It argues that the television revolution here over the turn of the twenty-first century has been largely a technological one driven by commercial imperatives, rather than by any ideological resurgence of civil society ideals.

As demonstrated by much of the research reported in this book, many governments in Asia have felt threatened by the advent of transnational satellite television and have endeavoured via various means to control broadcasts and/or citizens' access. In this chapter, transnational satellite television is defined as television channels and stations which even if primarily directed at one country, are accessible through spillover in more than one country and are watched by significant numbers of people in other countries including audience segments such as long-term migrants, expatriate workers, culturally similar ethnic groups, and the like. It certainly comprises channels such as CNN, Discovery, HBO, ESPN, MTV and Disney, but in Asia also includes StarTV, ZeeTV, TVBI, Channel News Asia and CTN which originate within the region. The countries that felt most threatened by such broadcasters were those which had the strongest ideological commitments to national cultural, political integration and/or to centralist social and economic planning.

Many Asian governments view the state as constituting, superseding or at least incorporating civil society, and thus have co-opted its constituent socio-political groupings in a paternalistic manner. The media then are seen as subservient to the cause of nation-building as defined by that government, and in many countries domestic public television was pressed into service of this cause. Even satellite television was harnessed by domestic public broadcasters to reach the remote corners of far-flung territories with this nationalistic project. Realising, however, that their various current media regulations had failed to achieve sufficient control over citizens' access to foreign broadcasts, some Asian governments have gone on to make concessions to the transnational satellite broadcasters. While most other governments simply conceded defeat on regulation, a rare few have welcomed this new medium. In some cases, state or city governments even allied themselves with transnational broadcasters in the hope of fostering civil society within their borders. Such motivations might be seen as a renaissance of their struggle for independence from colonial powers or as their continuing resistance against the hegemony of the political centre. However, transnational satellite television is only interested in such associations with governments and civil society in so much as it delivers an untapped audience market substantial enough to be of interest to marketers, domestic or global.

Capitalism and communications

Transnational satellite television in Asia was an initiative of business to provide a pan-Asian advertising medium, rather than an endeavour by governments or inter-government organisations (IGOs) to provide a public service to the region. From the start, multinational corporations (MNCs), of either regional or Western origin, have sought to dominate the transnational satellite television industry in Asia, as they have elsewhere in the world, whether this be through the hardware of satellite/cable technology or the software of programming and advertising. With the increasing incidence of collaboration between transnational broadcasters and domestic cultural industries, and the trends in domestic television towards privatisation and deregulation, the role of media conglomerates and marketing multinationals seems to be expanding in tandem with dominant commercial and political interests in the various countries of Asia. The resultant homogeneity of programme offerings despite the multiplication of both transnational and domestic television fails to give voice to the social and cultural diversity within each nation-state and may even inhibit the functioning of effective civil society.

Satellite dependency

Even before the era of transnational television, communications satellites for national development purposes were recommended to the governments of

Third World countries such as India and Indonesia. As is evident in the national case-studies of this book, this was done by First World governments or their surrogate IGOs, usually at the lobbying of their MNCs which stood to gain much financially. But the purported benefits of national integration, administrative effectiveness, provision of educational services and of news/information, and in fact their deliverability, may be questioned. For it is doubtful whether the medium of domestic satellite television could realistically overcome the need for local autonomy, bureaucratic centralism and inefficiencies inherited from colonial powers, and general deficiencies of finances, trained personnel and support equipment which are often characteristic of developing countries.

Extensive research funded in the 1970s and 1980s by the governments and their donors/sponsors did seem to reveal some positive social and economic change with the use of satellites. But the reality was more often that the somewhat minuscule change might have been achieved more cost-effectively by alternative communications media, including less glamorous traditional forms. The low cost of the latter though would have meant they could be utilised by various social groups and be less amenable to centralised control by the national government. So, in the name of national integration and economic development, the public broadcasters of Asia aided the suppression of civil society and formed a dependency relationship with the First World and its MNCs for technology, well prior to the arrival of commercial transnational television via satellite.

Players and platforms

Any listing of the major transnational television broadcasters and satellite platforms in Asia at the turn of the twenty-first century makes it quite evident that the field is dominated by MNCs, whether regional or global. Even where the satellites are owned by national governments or corporations owned by them, as for instance Indonesia's Palapa or India's Insat satellites, or by IGOs such as Intelsat, most of the television channels they carry are commercial and owned by domestic and transnational broadcasters, a trend that continues unabated. Other satellites are owned or part-owned by regional or domestic conglomerates, such as AsiaSat, Apstar, Thaicom and Measat satellites. With few exceptions such as the cases of India and China, the satellites are constructed by First World MNCs to the specifications of their Asian owners and their potential broadcaster clients, and launched at facilities owned by First World governments or consortia of them. Some satellite owners and even manufacturers are diversifying into the business of programming and channel establishment, in other words expanding from hardware into software. Although on the surface, terrestrial and satellite broadcasters from within the Asia region are holding their own against the transnationals, even beating them at their own game, the reality is of continued domination of the industry's hardware and software markets

by MNCs from the First World. In any case, most of the domestic or regional broadcasters and satellite owners have connections with or participation by government, dominant political party, armed forces or other important domestic power bases. As such they have not been accessible vehicles for reflecting the aspirations of the various civil societies within each nation-state, as amply demonstrated at times of social upheaval.

Cable-satellite links

Redistribution of television signals to cable networks was the first major use of satellites to be made by the television industry in the US and continues to be a prime factor in the utilisation of broadcast satellites in Asia. Often the growth of ad hoc, localised and unregulated cable networks in countries like India and Taiwan was symptomatic of their civil society's rejection of the government's political or cultural hegemony via the media. Extensive pirating of signals by individuals and illegal cable operators using satellite dishes has necessitated the scrambling of signals by many transnational satellite broadcasters in Asia, and again involves utilising technologies patented and controlled by Western corporations. Although technology for direct broadcast satellites (DBS) has been in existence in the West for decades and in Asia for half a decade now, it has not gained widespread acceptance in the marketplace due to the higher cost of reception via satellite dishes for consumers. Some Asian countries such as Singapore, Indonesia and Taiwan have adapted cable television for Pay-TV purposes in their attempts to extend national sovereignty over transnational broadcasts available locally. But usually these government attempts to regulate the multitude of small domestic cable networks have been via issuing a limited number of licences which are then won by local corporations with both financial and political clout. The resultant industry consolidation has often opened the door to foreign MNCs to form multi-service operations (MSOs) in joint ventures or strategic alliances with these domestic or regional corporations, as evidenced in both Taiwan and India. The feasibility of being able to provide an alternative television medium in support of civil society in such regulated Asian markets is thus considerably diminished.

Domestic media ownership

In many countries of Asia domestic television is in the hands of a local political and economic elite. For instance, in Indonesia the domestic public broadcaster TVRI was in the hands of a politicised government bureaucracy under the Soeharto regime for decades until the late 1990s when the democratically elected Wahid government made it an autonomous body. The domestic commercial broadcasters such as RCTI, TPI and IVM, the Pay-TV narrowcasters such as Indovision and Kabelvision, and satellite owners such as IndoSat were controlled by conglomerates of the local economic elite,

though less so now given the fall-out of the 1997 economic crisis. It is noteworthy that in Indonesia, representatives of the reform movement successfully negotiated with these television stations for the removal of certain directors. The consequent change of programming direction of the stations has seen the stations play a significant role in support of civil society. Likewise in India, the public broadcaster is in the hands of a government bureaucracy based in Delhi in the Hindi-speaking north and is subject to considerable political influence. Commercial broadcasting in India has been largely a marriage of non-resident Indians, local business elites, political parties and state governments, particularly in the non-Hindi-speaking south. Together they have increasingly taken on the role of multi-service providers of content and technology, but have not necessarily created new media for civil society purposes.

In China, the national, provincial and city-based television stations, as well as cable networks, are owned by the state, military or communist party subsidiaries. They are run as commercial stations and are one means of supplementing the limited income of those government entities, but serve also as barriers to the expression of dissenting viewpoints. A similar situation existed paradoxically in capitalist Taiwan over the 1990s with the terrestrial television broadcasters being owned by the previous authoritarian Kuomintang government. Though here the quasi-illegal neighbourhood cable networks were then dominated by then opposition political parties and their sympathisers. Called 'democracy networks', since they provided an alternative space for political debate, these could be said to be representative of civil society. Following regulation in the mid-1990s there was increasing involvement in the consolidated cable networks and MSOs by pro-government (then Kuomintang) business interests who already controlled terrestrial television. Domestic television played only a marginal role in the development of civil society in Hong Kong, largely prompted by the impending handover to China. Without a public television station, its commercial stations and cable services are owned by leading business families and local corporations, and were highly regulated by the government. This had been so even prior to the handover of its sovereignty to China, and there have been some concerns expressed by civil leaders since then that its guaranteed freedoms may be further eroded over time. The British colonial government was at pains to ensure that the media was apolitical, while the current administration is keen to have a media sector that is uncritical of mainland Chinese policies. Transnational television, even though uplinked from the territory, was largely ignored since it was not in the local Chinese dialect and thus irrelevant to the maintenance of civil society.

Regulation and liberalisation

National governments are by their very definition nationalistic and therefore invariably fear intrusion into their political and cultural environment by

transnational satellite television over which they have little influence or control. Based on this perceived threat to their sovereignty, each country in the East Asia region has sought to adapt in differing ways to the intrusion of transnational satellite television. At the same time, deregulation of the media is one of the key outcomes of the relentless economic and political globalisation that has been much in evidence in Asia and worldwide at the turn of the twenty-first century. Consequently this has compelled considerable abdication of control by governments to private enterprise, whether national or transnational. Given the latter's agenda of targeting audiences via palatable content to sell on to advertisers, there seems little promise of transnational satellite television nurturing, much less championing, nationally based civil societies in Asia.

Controls

The controls exercised by governments towards transnational satellite television have ranged from active suppression to liberal access. As evidenced in the case studies in this book and other publications, in the past decade many shifts in policy have been made by Asian countries. A prime response of governments has been some deregulation of their terrestrial-domestic television industries, as seen in Indonesia, Taiwan and Thailand, either in anticipation of transnational satellite television or in forced response to overwhelming competition from them. Subsequent political upheavals in such countries have seen these newer domestic media play a growing role in supporting civil society as independent information sources, as fora for social debate and as watchdogs on government mismanagement, or in other words as the proverbial fourth estate. In the more politically conservative countries, the preferred option has been the expansion and diversification of the government-owned or controlled media, as in China, Malaysia and Singapore, but these have not provided any space for political debate. On the other hand, while more liberal countries such as the Philippines, Thailand and, more recently, Indonesia seem content to let market forces prevail, others such as Korea, Pakistan and Cambodia have adopted a wait-and-see attitude, though clearly biased towards the more conservative alternative of strict regulation. In any case, government control over access grows increasingly difficult with technological advances, such as the greater power of DBS satellites making dish antennae for reception smaller and thus less detectable, as well as the increased streaming of television broadcasts over the Internet via broadband cable.

Alliances

While strict regulation of broadcasting is being seriously undermined by global or regional media corporations, particularly from the developed world, total deregulation may be unpalatable to developing countries, partic-

ularly those without a strong tradition of civil society. So a tension exists between transnational television broadcasters operating in Asia and the governments of many countries under their satellite footprints. Still, the interests of commercial broadcasters and politicians or officials may not be as much at odds as they seem on the surface. Transnational broadcasters tend to provide space for social concerns only if there is a market impetus for doing so. For instance, StarTV and ZeeTV sided with India in the Kashmiri conflict in 1999 simply because it was a much larger audience market than Pakistan and would, if alienated, threaten advertiser support. Its parent News Corporation made amends with the Chinese government over Murdoch's earlier speech on satellite television threatening totalitarian states, by subsequently publishing the late Deng Xiao Peng's memoirs worldwide through its subsidiary Harper Collins. It also reneged on its contract to publish the memoirs of Chris Patten, the last British governor of Hong Kong. All these sacrifices of commitment to impartiality and freedom of information, were motivated solely by the potential loss of a major audience market or opportunities for joint ventures in production. StarTV has since formed joint ventures for programme production, channel provision and cable networks in China, India and Indonesia, usually with domestic partners having the right political connections to facilitate licences and local business links to guarantee audience penetration. Invariably the greater the links between transnational broadcasters and the nation-state, the less scope there is for the former to support the development of civil society.

Concessions

Asian countries such as Malaysia and Singapore, which restrict the reception of free-to-air satellite television by banning individual ownership of satellite dishes have responded to transnational pressures by providing cable television services which offer programming similar to transnational satellite broadcasters or which is selectively down-linked from them. Authorities are able to apply pressure on cable providers and even censor cable programming and advertising in a way not possible with transnational satellite direct-to-home broadcasters. The Malaysian government, for instance, insisted on a one-hour time lag between its own Pay-TV broadcasters down-linking of transnational channels and its uplinking to its own satellite for domestic rebroadcast. Within that hour, programmes were inspected by government censors based physically at the domestic Pay-TV broadcasters' facilities and duly edited of political and cultural offence. Such pressure is somewhat superfluous in many countries, given the phenomenon of 'crony capitalism'. Over the 1990s cable re-broadcasters in Malaysia, Thailand, Indonesia and the Philippines were owned either by a corporation owned by a political party in government or in the ruling coalition, or by the family and close associates of key political leaders.

Investment

Some governments, notably China, Singapore and Japan, have entered the transnational satellite television business themselves. Others are contemplating doing so, at least on an Asia-wide basis as an extension of their use of satellites for domestic television which usually produces considerable spillover anyway. The underlying rationale for all these concessions must be that the wider the choice of domestic terrestrial, satellite broadcasts and cable narrowcasts available, the less likely their citizens are to be attracted to viewing transnational satellite television. Of particular concern to many governments in the region are those transnational television broadcasters of Western origin which are said by governments not to share a similar commitment to so-called Asian social and political values. This is often seen by the intelligensia of both the West and Asia for what it largely is, namely, an excuse to exercise paternalistic control of the medium and suppress dissenting opinions by civil society. Such a stance on national sovereignty and Asian values is largely hypocritical when the government-controlled media provide much by way of innocuous entertainment either imported from the West or cloned from their programme formats.

The effectiveness of transnational satellite television in appealing to domestic audiences seems not to involve any single factor but the interaction of multiple factors. These include the quality of terrestrial programming versus satellite programming, cultural and linguistic barriers and pathways, access costs for consumers and the general level of economic affluence, among many others. Thus regulation by itself may be a poor predictor of the impact of transnational satellite television because there are numerous other factors to be considered in the equation, in recognition of which many governments in East Asia have belatedly deregulated their television industries. While some governments hold on to their regulations or make further pronouncements on control in the name of national sovereignty, most fail to implement them, or even try to, except erratically. With few exceptions this quasi-liberalisation in Asian nation-states seems motivated by their push for integration into the capitalist world economy and resignation to massive technological change in communications, rather than enlightened concerns for providing independent information, public media space or freedom of expression to diverse associational activity within their societies.

Societies and markets

Political and economic imperialism was as much a concern in Asia as it was in Eastern Europe, Latin America and Africa, and was the basis on which many states subsumed civil society in their post-independence nationalism. As demonstrated throughout this and other chapters in this book, national media regulations devised by paternalistic governments are partly driven by fear of Western cultural homogenisation, but more so by fears of the loss of national sovereignty over culture and politics. Although Asia has not experi-

enced the extensive civil society-led revolutions of Eastern Europe, the television industry has undergone a significant transition, even if one largely commercially and technology driven. Liberalisation of the media industry has been a concomitant of political change, as is evident most dramatically in Taiwan, Indonesia and Korea, and less so in many other countries. Increasingly, policy makers in Asia have come to recognise that their countries cannot develop through the capitalist world system without contact with other cultures. They seek to reinforce their own cultural values and style through producing quality television programmes domestically to counter the consumerist influences of transnational programming. But then their upgraded domestic television programming is often a localised clone of the transnational broadcasters, and no less consumerist in its values and no more instrumental in fostering civil society.

Media supports civil society and democratic process when it provides a voice for the marginalised, or at least a space for open political debate. Quite clearly not all forms of civil society ought to be considered worthy of support by any media, since some may represent intolerance, even violence, as demonstrated by many fundamentalist groups. Yet, effective one-party states or states with dominant ruling coalitions, which characterise many Asian countries, often use national unity as an excuse to stifle civil society and claim to incorporate and represent its concerns. In forming their policies on regulating the television medium, governments often take on board the views of various civic bodies, though in such countries these are generally government-controlled and thus tend to be sycophantic. Furthermore, the issue of media regulation is not solely about civil society versus the state, since there is the third element of the market. In catering to the last of these, transnational satellite television may not meet the needs of civil society and yet be quite acceptable to the state since it distracts the citizenry from political dissent against the status quo.

Since the height of the political and economic crisis in 1997, space for civil society was created on domestic Indonesian television. In the post Soeharto period, it takes the form of fora, talk-shows, investigative journalism and uncensored news. As in Korea with Kim Dae-Jung, both top-down and bottom-up pressures came to be applied on the media or rather when the once-bottom grassroots of civil society rose to the top of government! Korea may be exceptional in being the only country where an NGO was invited to be involved in media reform by the president. As a whole, transnational satellite broadcasters have not done likewise in creating space for civil society for their Indonesian or Korean viewers, even the English-speaking – since they represent small markets. In the past, these transnational broadcasters have reported events extensively which national broadcasters have played down or ignored completely. But where transnational broadcasters target specific markets and are dependent on access for advertising support, they aim to avoid confrontation with national governments which may apply pressure in not-so-subtle ways which would

adversely affect their expansion. For example, the government in China is indispensable for approval of joint ventures in the television industry, and the government in India for legislative changes governing broadcasts from and to the country, and rebroadcasts within.

Disenchantment with the nation-state and consumerism, both championed by the television medium, leads to revival of interest in civil society and its concerns with fraternal relations, collectivity, moral imperatives, trust, cultural diversity, local autonomy. The catalyst for civil society seems to reside in different groups in different countries, all of whom have enjoyed varied access to transnational and domestic television: students in Indonesia, unions in Korea, ethnic groups in India, democracy activists in Taiwan, anti-China protesters in Hong Kong. But are there social strata and sub-cultures within nation-states that, given their histories of disenfranchisement and even repression, are not amenable to participation in political affairs? Is concern for civil society really a pet project of the middle-class or intellectual strata in many nation-states, and not of the masses who are largely indifferent and wish simply to be distracted by entertainment on television, oblivious to whether it be domestic or transnational?

Hope amidst doubts

The regulation of transnational satellite television is closely linked to deregulation of domestic terrestrial television because both emanate from national government policies concerning political and cultural rights which may be at odds with the aspirations of various civil movements within the country. In any case, privatisation pressures resulting from the GATT/WTO treaties mean that countries may find it difficult to control ownership and content policies of domestic broadcasters, let alone ownership, content and consumer access to transnational ones. In its present form, transnational television acts as a conduit largely of entertainment and to a much lesser degree of information from outside the region to which it broadcasts. Thus it seldom, if ever, serves as an arena for feedback from its audience in the way that local radio and the press tend to. In many cases what is broadcast may be alien to the audience or, worse yet, the audience may see itself portrayed in a marginalised fashion. Legitimate reportage on a global or regional basis can cause local problems over sensitive issues. Civil society is characterised by local scale and may only be relevant to transnational satellite television if the latter's content is national or subnational in scope regardless of its signal's footprint. Civil society presupposes concerned citizens; transnational satellite television seeks affluent consumers. Still, a transnational broadcaster can uphold the universal values of human rights, social justice and freedom of speech which transnational, national or subnational civil societies can appropriate for their local purposes.

Flourishing civil society organisations are more critical to the functioning of democracy than the mere existence of political parties which, given their

vested interests, often support the status quo. By the same token, limited television channels whose ownership is diffuse and which are politically neutral are more important than having a multiplicity of channels allied to political parties or channels controlled by the government or its surrogates. Though often not committed to local political causes, most transnational satellite television channels as commercial entities are ideologically committed to capitalist ideals of free markets, deregulation, globalisation, consumerism, materialism and individualism. Naturally, there would be an intrinsic political bias in their coverage of any national or even transnational social movement not hospitable to these values. Given the high costs of setting up and operating them, television channels are beyond the means of most social movements which have turned to the Internet as an alternative medium. But for at least a decade yet, cable and Internet access is likely to be confined to the affluent, urban and youthful as the penetration of communications and information technologies is still low in many countries of the region. Yet paradoxically, transnational satellite television rebroadcast via cable networks may stimulate the uptake of Internet connectivity, thus offering the greatest hope of an effective new medium for promoting civil society in Asia.

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Television, Regulation and Civil Society in Asia

This highly topical book exposes the tensions between the politics of broadcasting regulation and practices of civil society in the Asian region, which is struggling with its incorporation into a new, globalised, electronic information and entertainment world. The book critically compares western principles of broadcasting, civil society and cultural regulation with alternative 'Asian' practices of regulation and organisation.

Over the past forty years Asian states have used television as a normative cultural force in nation building, but more recently many states have deregulated their television sectors and introduced national, commercial and international satellite services. As Asian states wrestle with a perceived loss of cultural control and identity through deregulation, this book considers their viewpoints and the question of whether the television public sphere offers space for the representation of popular sovereignty, and transversal concerns about human rights, press freedom, gender, environmental and world trade issues.

Philip Kitley is Associate Professor in Asian Studies at the University of Southern Queensland. He has published widely on media and culture in Indonesia, including *Television, Nation and Culture in Indonesia* (2000), the first major study of television in Indonesia, which has also been translated and published in Indonesian.